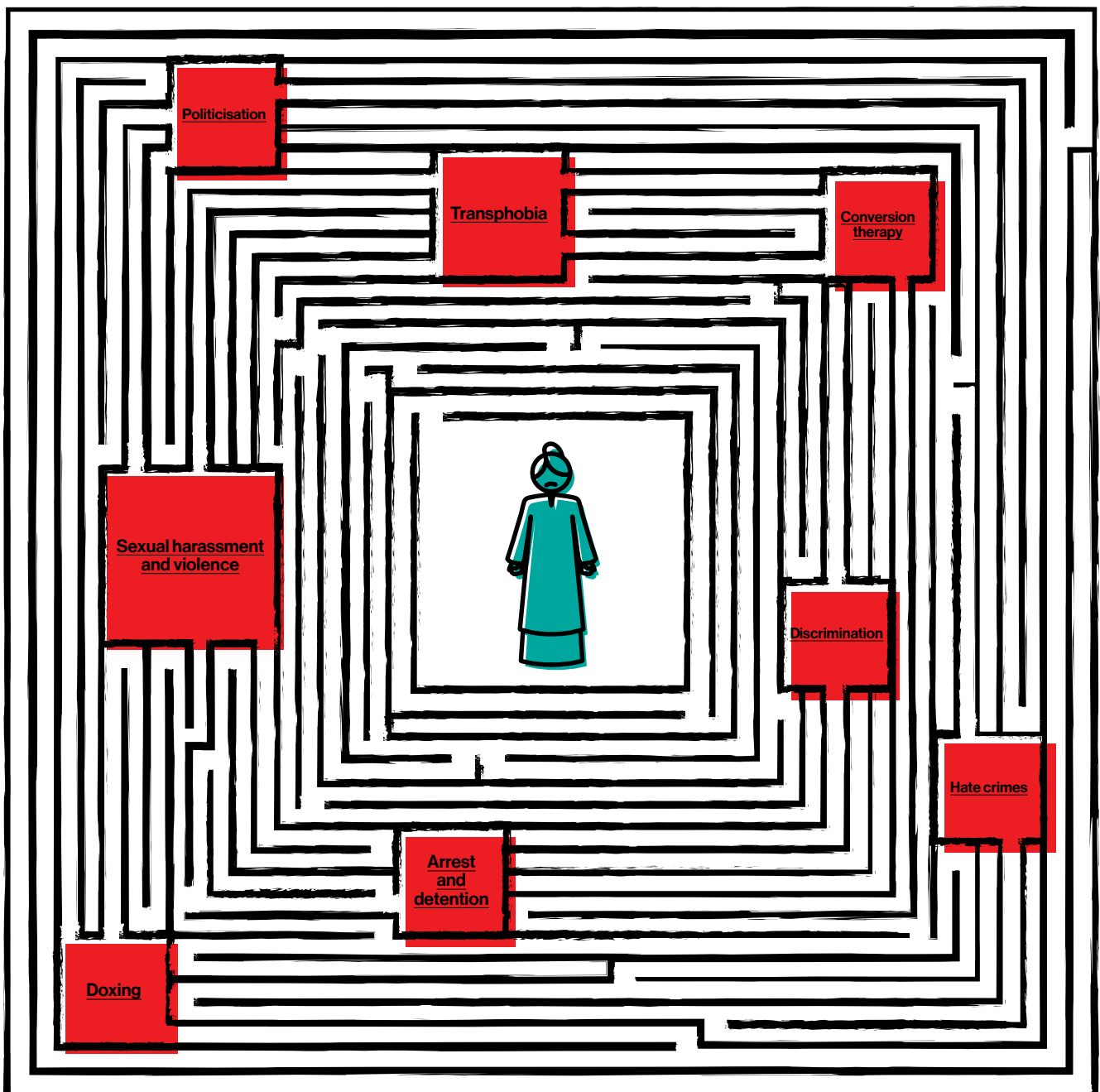
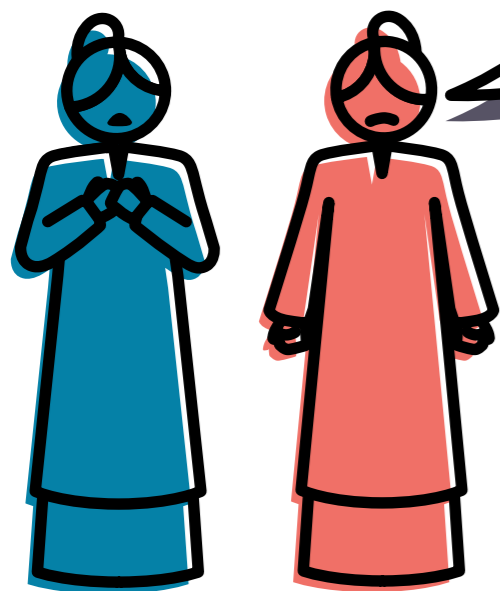


Freedom of Expression and Gender Identity

A study on the freedom of expression and gender identity of Malaysian transgender women

**Thilaga Sulathireh
Sulastri Ariffin
Breena Au**





“When we disclose or reveal our gender identity, some of them **will be surprised and change their behaviour by being immoral to us**”
(Fazura)

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Acknowledgments

Justice for Sisters expresses its utmost gratitude to the respondents, researchers, field workers, transcribers and others involved in the completion of this research. Our heartfelt appreciation to Rania Hashim, Breena Au, Sulastris Ariffin, and Thilaga Sulathireh for their contributions to the report.

We would also like to express our gratitude and appreciation to Sisters United in Sarawak, SEED Malaysia and PT Foundation in Kuala Lumpur, Khartini Slamah, Mischa, Minisha Deepu for their support. We would also give thanks to Empower for all their support and patience in helping ensure the research was completed within the agreed timeline.

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Editor: **Suri Kempe**



Acronyms and Glossary

Cis or cisgender	A person whose gender identity matches the sex or identity assigned at birth
FoE	Freedom of Expression
Gender ideology	Gender ideologies are defined as views that people hold regarding gender roles
Hetero or heterosexual	A person who is romantically and/or sexually attracted to people who identify as the opposite gender, including cisgender or transgender person. A cisgender man who is in a relationship with trans woman is considered to be in a heterosexual relationship
LGBTIQ	Lesbian, gay bisexual, transgender, intersex and queer
MAC	Malaysian AIDS Council
MCO	Movement Control Order
OHCHR	Office of the United Nations High Commissioner for Human Rights
SOGIESC	Sexual orientation, gender identity, gender expression and sex characteristics
TGEU	Transgender Europe
TENI	Transgender Equality Network Ireland
UDHR	Universal Declaration of Human Rights

Introduction

Transgender or trans women in Malaysia enjoy limited freedom of expression (FoE) due to several intersecting factors. This includes the criminalisation of trans women under various laws, non-recognition of their gender identity, censorship laws, legal barriers in accessing trans specific healthcare services, all of which pose structural barriers for trans women to be themselves and enjoy equality and non-discrimination under the law. In Malaysia, societal attitudes and cis and hetero-patriarchal interpretations of gender diversity in religion, in particular Islam, manifest in the promotion of ‘gender ideology’ through a religious lens, which further restrict their FoE.

With the ease of access to social media, there has been increased visibility of trans and LGBT persons, trans and LGBT persons-owned businesses, and activism at the national and global level. This visibility and self-expression by trans and LGBT persons are often misconstrued as ‘promotion of LGBT lifestyle’ in the public narrative. In 2018, Mujahid Rawa, the former Minister of Religious Affairs stated, “The government does not accept any liberalist movement that seek (sic) to promote LGBT lifestyle and same-sex marriage while trying to abolish related provisions under the civil law or the State Syariah Criminal Procedure Enactment.”¹ This position has continued into the present day, with the Deputy Minister of Communication and Multimedia, Datuk Zahidi Zainul Abidin noting that “LGBT or trans women hide behind many guises (online). Besides promoting their LGBTness, they hide behind their certain businesses, and other activities that they do.”²

Meanwhile, conservative Members of Parliament and others have consistently raised alarms over the increasing visibility of LGBT persons, in particular on social media and proposed harsher laws and other measures to curb it.³

In recent years, trans women have faced increased censorship,⁴ gender based violence,⁵ prosecution and investigation for participating in beauty pageants,⁶ and boycotts of trans women-owned businesses and products.⁷

In February 2020, Nur Sajat, a self-identified intersex woman celebrity perceived as a trans woman faced severe backlash from online users and the state for wearing the *telekung* or female prayer garment while performing the *umrah* (lesser pilgrimage) in Mecca after she posted the photos on her social media platforms.⁸

The backlash escalated further with the non-consensual sharing (doxing) of Sajat’s legal documents online by an acquaintance. This was followed with the release of her personal details on her birth certificate by the Federal Territory Mufti’s Office after obtaining them from the National Registration Department⁹, and a call to ban Sajat from social media platforms by the then Minister of Religious Affairs as her actions “led rise to discomfort among Muslims.”¹⁰

This research interrogates the enjoyment of FoE by trans women using Article 19 of the Universal Declaration of Human Rights (UDHR)¹¹ and the Yogyakarta Principles¹² as a framework. In particular, the study seeks to understand:

1. The relationship between restrictions in women’s freedom of expression and gender-based violence;

2. Availability, accessibility and efficacy of redress and remedy mechanisms in cases of sexual and gender-based violence (SGBV) related to freedom of expression online and offline;
3. The factors that contribute to the enjoyment and restriction of freedom of expression by women.

Principle 19 of the Yogyakarta Principles provides a sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC) lens as it expands the definition of freedom of expression from freedom to hold opinions without interference and to seek, receive and impart information and ideas to include expression of identity or personhood through speech, deportment, dress, bodily characteristics, choice of name, or through other means:

Everyone has the right to freedom of opinion and expression, regardless of sexual orientation or gender identity. This includes **the expression of identity or personhood through speech, deportment, dress, bodily characteristics, choice of name, or any other means**, as well as the freedom to **seek, receive and impart information and ideas** of all kinds, including with regard to human rights, sexual orientation and gender identity, through any medium and regardless of frontiers.

“Even [though] we like to think of ourselves in the Klang Valley as the bastion of progressiveness in Malaysia, **we still have a long way to go**”
(Nancy)



1 Rohman, Mohd Anwar Patho. “No Place for Liberalism in the Promotion of LGBT Lifestyle, Says Mujahid.” *NST Online*, 29 Nov. 2018, www.nst.com.my/news/nation/2018/11/435764/no-place-liberalism-promotion-lgbt-lifestyle-says-mujahid.

2 Penyata Rasmi Parlimen Dewan Rakyat Parlimen Keempat Belas Penggal Ketiga Mesyuarat Kedua.” Parlimen Malaysia, vol. 13, 2020, p. 21, www.parlimen.gov.my/hansard-dewan-rakyat.html?uweb=dr&arkib=yes.

3 Tan, Tarrence, et al. “More than 2,400 Porn Sites Blocked by MCMC since 2018.” *The Star Online*, 3 Aug. 2020, www.thestar.com.my/news/nation/2020/08/03/more-than-2400-porn-sites-blocked-by-mcmc-since-2018.

4 Su-Lyn, Boo. “LGBT Activists’ Portraits Removed from George Town Festival Exhibition.” *Malaysia | Malay Mail*, 8 Aug. 2018, www.malaymail.com/news/malaysia/2018/08/08/lgbt-activists-portraits-removed-from-george-town-festival-exhibition/1660198.

5 Ghoshal, Neela, and Thilaga Sulathireh. “The Deceased Can’t Speak for Herself: Violence Against LGBT People in Malaysia.” *Georgetown Journal of International Affairs*, 2019, www.georgetownjournalofinternationalaffairs.org/online-edition/2019/6/23/the-deceased-cant-speak-for-herself-violence-against-lgbt-people-in-malaysia.

6 “Padah Berlagak Wanita [METROTV].” *HM Online*, 28 Oct. 2020, www.hmmetro.com.my/mutakhir/2020/10/635430/padah-berlagak-wanita-metrotv.

7 Media Isma Sdb Bhd. “NGO Bantah Kehadiran Sajat, Safiey Ilias Di Program Kesusahawanan.” *Ismaweb*, 29 Sept. 2018, ismaweb.net/2018/09/29/ngo-bantah-kehadiran-sajat-safiey-ili-as-di-program-

8 Hisamudin, Hakimie Amrie. “Take Threats against Nur Sajat, Transgender Community Seriously, Say Activists.” *Free Malaysia Today (FMT)*, 5 Mar. 2021, www.freemalaysiatoday.com/category/nation/2021/03/05/take-threats-against-nur-sajat-transgender-community-seriously-say-activists.

9 Nawawi, Muhaamad Hafis. “It’s Muhammad Sajat.” *NST Online*, 5 Feb. 2020, www.nst.com.my/news/nation/2020/02/562688/its-muhammad-sajat.

10 Malay Mail. “Mujahid Meets MCMC to Act against Nur Sajat’s ‘umrah’ Social Media Posts.” *Malaysia | Malay Mail*, 4 Feb. 2020, www.malaymail.com/news/malaysia/2020/02/04/mujahid-meets-mcmc-to-act-against-nur-sajats-umrah-social-media-posts/1834221.

11 Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. See Declaration of Human Rights https://www.un.org/en/universal-declaration-human-rights/index.html

12 Everyone has the right to freedom of opinion and expression, regardless of sexual orientation or gender identity. This includes the expression of identity or personhood through speech, deportment, dress, bodily characteristics, choice of name, or any other means, as well as the freedom to seek, receive and impart information and ideas of all kinds, including with regard to human rights, sexual orientation and gender identity, through any medium and regardless of frontiers.

Methodology

This research interviewed 60 trans women from seven states—Kuala Lumpur, Selangor, Perak, Pahang, Johor, Melaka, Sabah, Sarawak—between May 2019 and September 2020. The qualitative research employed a snowball method. The authors also received the assistance of field workers and community organisers in identifying respondents for the research.

State	Number of respondents
Kuala Lumpur and Selangor	11
Perak	12
Pahang	8
Johor	8
Melaka	7
Sabah	8
Sarawak	6
Total	60

Table 1: Number of respondents based on state

The interviews were guided by a questionnaire developed jointly by the authors with Empower. The respondents however, did not respond to all of the questions. As the interviews were qualitative in nature, the interviewers provided space for the respondents to share their stories, while adhering to the general structure of the questionnaire. As a result, we managed to gather rich lived experiences. However, as a result, the research was unable to gather quantitative data.

The research was delayed due to several unforeseen circumstances, including the Covid-19 pandemic. Nonetheless, the authors were able to capitalise on the delays and gather additional information that has now been included in the research.

The interviews were carried out in two phases. The first batch of interviews was conducted between May and September 2019. The second batch of interviews was carried out between July and September 2020, which was during the Covid-19 pandemic and after the lifting of several nation-wide movement control orders (MCO). Through the second phase of the interviews, the authors were able to gather additional information on the impact faced by the respondents during the Covid-19 pandemic.

Nonetheless, the Covid-19 pandemic made it challenging to carry out face-to-face interviews. The stark digital divide in the trans women community, in particular communities outside of Kuala Lumpur, made online interviews impossible. Thus, the interviews with respondents were only carried out after the MCO was lifted in Malaysia and at the state level.

Demographics of the respondents

Although the significant majority identified as Malay, the respondent group consists of a diverse population of people from geographical, age and ethnic backgrounds. There were respondents who identified as Malay and Dusun, Melanau, and other ethnicities in Sabah and Sarawak.

Ethnicity	Number of respondents
Malay	46
Chinese	5
Indian	6
Mixed background	3

Table 2: Ethnic breakdown of respondents

In terms of religion, the respondents, including the Malay respondents, said they were more fluid in terms of their religious beliefs and spirituality, while a small number identified as agnostic, free thinkers, and believers of all religions.

A respondent who identifies as an Indian Hindu shared that besides visiting temples, she also visits churches and other religious spaces. The other non-Malay/non-Muslim respondents live with and have close relationships with Malay-Muslim trans women. As a result, they were open to different religious ideas and cultural practices, and showed significant empathy and solidarity for Muslim trans women.

One respondent is of mixed nationality and lives in Malaysia.

Age	Number of Respondents
18 - 19	1
20 - 30	11
31 - 40	35
41 - 50	9
51-60	4

Table 3: Age group of the respondents

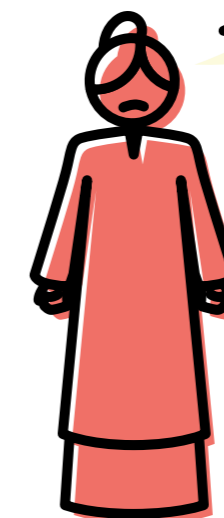
At least two respondents were students at the time of the interview. One of the students had a part-time job. Meanwhile, the other respondents had no prior or current employment experience.

In terms of sexual orientation, many of them identified as heterosexual, with the exception of two respondents identified as lesbian or queer women. However, their experiences as queer women were not documented.

Meanwhile, one respondent in her 50s shared that she has hearing issues. It is unclear if it is a result of old age or if she was differently abled in childhood or adulthood.

In hindsight, the research could have included a question on level of income to have a better sense of their economic background, and the impact of restriction of their freedom of expression on their livelihood and economic well-being.

“They think, ‘Do LGBT people have human rights?’ **They don’t believe...most of them cannot accept”**
(Suraya)



Background

Transgender or trans women in Malaysia are locally known as *mak nyah* within the Malay speaking communities, or *thirunangai* in the Indian trans women communities. Meanwhile, Chinese speaking communities refer to trans women as *kuà xìngbié* (跨性别) and *kuà nǚ* (跨女), which refers to transgender.

The trans women communities introduced the term *mak nyah* in the 1980s in response to the lack of specific and affirming language to express their gender identity. The term 'pondan' was used as a catchall term for trans women, queer men and others who express themselves in a typically a feminine demeanour.

The term *mak nyah* was introduced in order to create a distinction between trans women and queer men. The term *mak nyah* is an amalgamation of *mak* or mother and *nyah* short for Nyonya, a Malay and Indonesian honorific used to refer to a foreign married lady. Khartini Slamah explains:

First, [as] a desire to differentiate ourselves from gay men, transvestites, cross dressers, drag queens, and other 'sexual minorities' with whom all those who are not heterosexual are automatically lumped, and second, because we also wanted to define ourselves from a vantage point of dignity rather than from the position of derogation in which Malaysian society had located us.¹³

While the definition of the terms girls, women and females are evolving and shifting from an essentialist and binary view, the identity of a woman is often reduced to her genitalia and presumed biological functions, which excludes trans and intersex women. This definition conflates sex and gender. Within this binary understanding, trans women are perceived as male or men who dress as women, instead of someone who is inherently a woman. As a result, trans women face persecution, not only on the basis of their gender expression and gender identity, but also perceived sexual orientation and sex (as they are perceived as male persons).

Although there is plenty of evidence that illustrates the existence of trans women throughout world history, their identities are still denied and misunderstood. Contrary to the hegemonic cis- and hetero-patriarchal understanding of religion, references to gender diversity can also be found in religious text. For example, there are many references made to *mukhannath* and *khuntha* (intersex persons). *Mukhannath* is understood as an umbrella term for a person assigned male at birth, who expresses themselves through feminine gender expressions.

Amidst the public backlash against Nur Sajat for wearing the female prayer garment while performing the *umrah* with her family members, Mustafa Akyol, a prominent scholar, expressed that trans people have existed throughout history and the conflation of gender identity and sex leads to discrimination of transgender persons, including denial and restriction of their freedom of religion. He urged society to come to terms with the existence of transgender people:

Some people are born with a conflict with their physical *fitra* and psychological *fitra*... Such a group of people exist, not just today, but also throughout history, for reasons we don't fully know... But there should be no problem in a transgender person being a full member of society—and also a good Muslim. I think the right Islamic response to this fact is not discrimination or persecution, but rather compassion and help.¹⁴

It is important however, to note that a 'compassionate' approach has frequently translated into misguided attempts to change or 'correct' trans people, and used to justify corrective therapy, as evidenced by the Malaysian government's efforts to rehabilitate trans people.

Victor Madrigal-Borloz, United Nations Independent Expert on protection from Violence and Discrimination based on Sexual Orientation and Gender Identity (SOGI) in an address at the Identity Conference, Toronto pointed out that severe and systemic impact of binary notion, gender stereotypes, and preconceived ideas of feminine and masculine on trans and gender diverse persons:

...I am convinced that the cruelty and viciousness of the violence and discrimination against trans women and men derives from the fact that respecting their identity represents the most radical rupture of the systems in place, that rely so strongly on binary notions and on preconceptions of the masculine and the feminine. The lack of legal recognition of gender identity in vast regions of the world must make us think about the connections with the concept of citizenry.

As one scholar, from the global north recently put it, "when [States] deny legal access to trans identities, what they are actually doing is messaging a sense of what is a proper citizen." As we speak of proper citizenship we must also make reference to the cultural and juridical significance of criminalisation.¹⁵

History of gender diversity

Gender diversity has been documented in Malaya, Borneo, South East Asia and all around the world. Michael Peletz in his book *Gender Pluralism in South East Asia* documents the existence of the *sida-sida*, gender-diverse identities similar to present-day transgender persons, in the palaces of Negeri Sembilan, Kelantan, Johor, and other parts of the Peninsula Malaya and parts of Indonesia.

The *sida-sida* resided in the inner chambers of the palace, and they were "entrusted with the sacred regalia and the preservation of the ruler's special powers." Further references to the *sida-sida* can be found in the *Hikayat Melayu* (historical Malay Chronicles), such as *Hikayat Amer Hamzah*. Professor Datuk Dr. Shamsul Amri Baharuddin, a Malaysian anthropologist, also provides a first-hand account of seeing the *sida-sida* in a palace as a child, describing them as people who were assigned male at birth, who dressed and performed the gender roles of women.

In Borneo, there are accounts of identities such as *manang bali*, *basir*, and *balian*, who are described as people assigned male at birth, and embodied female identity and performed the gender roles of cisgender women. *Basir*, according to Peletz, are described as someone who "dresses like a woman in private life as well, and parts their hair in the middle of their forehead just like a (cisgender) woman." *Manang bali*, *basir* and *balian* were also ritual specialists, shamans and healers, among others.¹⁶

Peletz also found inclusive cultural practices of transgender persons in dance performances and weddings in some states in Malaysia, in particular Sabah, Johor and Negeri Sembilan. In some of these communities, there is a relatively higher level of inclusion of transgender women. However, these inclusive cultural practices are not well documented and are eroding due to rising conservatism.

Khartini Slamah and Isz Husain, both human rights defenders, explained that in the 1960s and 1970s, trans women were invited to participate in *joget lambak* (communal dances) at weddings or *majlis berinai* (pre-wedding parties). Traditionally, live Ghazal music was played at wedding parties, where guests

were entertained by trans women musicians and singers. Khartini expounded:

The dance has been practiced for generations, there are many that still practice and preserve the culture. They like to see *mak nyah* entertaining at the event. It has been a generational practice. So, there is no stigma when there is a wedding—*mak nyahs* are invited.¹⁷

In Semporna, Sabah, the Igal-Igal dance is often performed at weddings where dancers and guests dance or *mengalai* before the bride, groom and others. Guests would slip money between the dancers' fingers as a form of appreciation.¹⁸ Trans women are not only invited to *mengalai* at wedding parties, some even hold beauty pageants as side events for trans women to participate in.

Besides serving as spaces for trans women to introduce and express themselves to the larger communities, the wedding parties were also a source of income for trans women. Isz added that the wedding host would sometimes invite trans women in the community to participate in the dance parties and provide them a small token.¹⁹ She noted:

It is still practiced in rural areas. The recent one was deep in the plantation, and so far. In the rural areas, or villages, there's more space so it's easier. In urban areas, it's not as feasible to have live bands in residential areas. There are barriers there. In the villages, the neighbours are your family members so they don't really mind it. So there are also risks of getting complained [about] to authorities.

In recent years, a number of these functions have been subjected to scrutiny. Consequently, the attendees have been subjected to violence, degrading and humiliating treatment, arrest and prosecution for wearing female attire in public spaces.

In 2014, 17 transgender women were arrested at a wedding party in Bahau, Negeri Sembilan. 16 were sentenced to a fine of RM 950 per person and seven days of imprisonment under Section 66 of the Negeri Sembilan Syariah Criminal Offences Enactment, which criminalises 'male person posing

13 Slamah, K., "The Struggle to Be Ourselves, Neither Men Nor Women: Mak Nyahs in Malaysia", in Misra, G. and Chandiramani, R. (eds.), *Sexuality, Gender and Rights: Exploring Theory and Practice in South and South East Asia*, SAGE, 2005, p. 99

14 Koya, Abdar Rahman. "Leave Nur Sajat Alone, Prominent Turkish Scholar Tells Malaysian Authorities." *Free Malaysia Today*, 5 Feb. 2020, www.freemalaysiatoday.com/category/nation/2020/02/05/leave-nur-sajat-alone-prominent-turkish-scholar-tells-malaysian-authorities.

15 "OHCHR | Identity Conference, Toronto." *OHCHR*, 2018, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23129&LangID=E.

16 Michael G. Peletz, *Gender Pluralism: Southeast Asia Since Early Modern Times*, Routledge, 2009

17 Interview with Khartini Slamah, 9 October 2019

18 Syarifuddin, Nasrawati. "Selit Wang Di Jari Penari." *Harian Metro* [Malaysia], 2018. <https://www.hmetro.com.my/mutakhir/2018/01/305673/selit-wang-di-jari-penari>

19 Interview with Isz Husain, 9 October 2019

as a woman'.²⁰ They were placed in a men's prison²¹ and their heads were shaved.²²

In July 2019, trans women in Semporna faced reprisals from state and non-state actors after photos of a trans women beauty pageant held at a wedding ceremony in their village went viral online. At least three operations were held by the state Islamic Department to look for the contestants and owners of the social media post and photos.

During this time, the trans women were subjected to sexual harassment and violence. At least three trans women quit their jobs at beauty salons due to fear of arrest. This case was resolved due to the intervention of Suhakam, the National Human Rights Commission of Malaysia.²³

Criminalisation and non-recognition of gender identity of transgender women

The 1980s was a turning point for trans women in Malaysia. It was the beginning of the clamp down and criminalisation of trans people and their gender identity, starting with the introduction of a *fatwa* (religious edict) in 1982 declaring trans women as 'haram' or illegal. This *fatwa* was followed by a series of other *fatwa* that have had an adverse impact on trans people, including the availability of trans-specific healthcare services and their ability to legally change the name and gendered details in their legal documents.

In 2012, Dr Mashitah, the then-Minister of Religious Affairs at the Prime Minister's Department, said in Parliament that trans persons, including those who have medically transitioned, would not be allowed to change the gender marker in their identification card and legal documents due to a *fatwa* confirmed at the Fourth Muzakarah in 1983, which declared gender affirmation surgery for trans women as *haram* based on *syarak*:

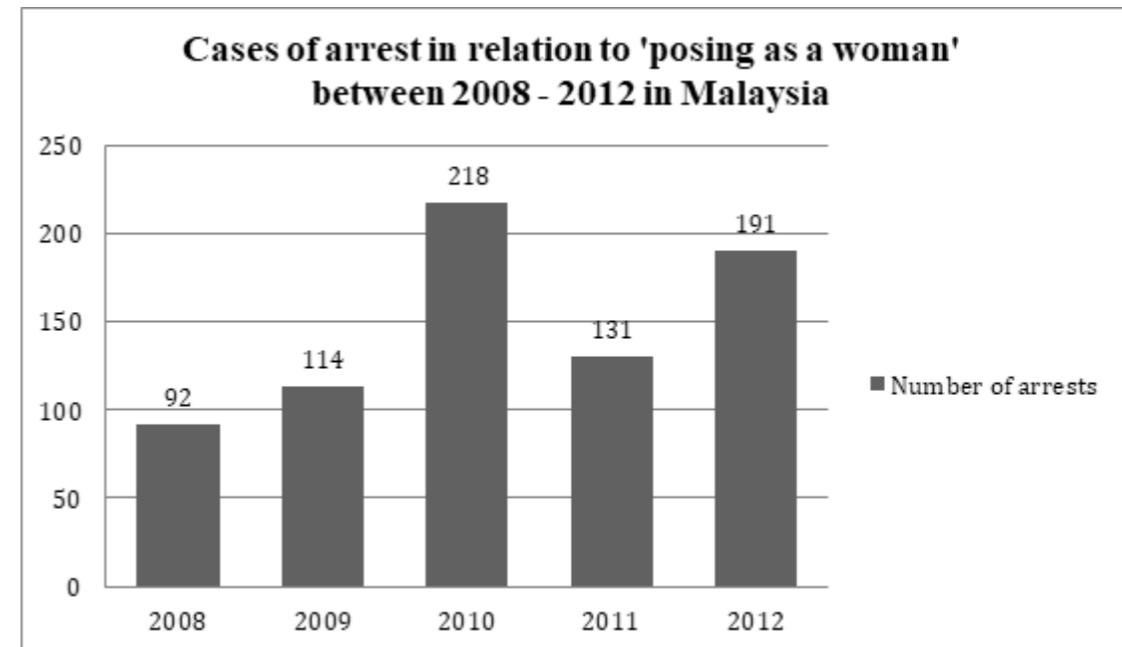
A person born as a boy is still a boy even if they successfully change their sex through surgeries. A person born as a girl is a girl even if they successfully change their sex in this matter. The (National) Registration Department is obliged to adhere to the decision by the Muzakarah Fatwa Council that has made

a decision on this matter.²⁴

The 1982 fatwa was followed by the introduction of state Syariah laws between 1985 and 2019, which criminalised non-cisnormative and heteronormative gender expression under the various state Syariah Criminal Offences Enactments. To date, all 13 states and the Federal Territories have laws that criminalise non-cisnormative gender identity and expression, which empower the state Islamic departments to arrest and detain trans women based on their gender identity and gender expression. There are two main versions of the law:

Version	State
Any male person who, in any public place, wears a woman's attire and poses as a woman shall be guilty of an offence and shall on conviction be liable to a fine not exceeding (x) ringgit or to imprisonment for a term not exceeding (x) or to both.	<ul style="list-style-type: none"> • Kelantan • Kedah • Perlis • Sabah
Any male person who, in any public place, wears a woman's attire and poses as a woman for immoral purposes shall be guilty of an offence and shall on conviction be liable to a fine not exceeding (x) ringgit or to imprisonment for a term not exceeding (x) or to both.	<ul style="list-style-type: none"> • Johor • Melaka • Perak • Pulau Pinang • Sarawak • Selangor • Terengganu • Federal Territory • Pahang • Negeri Sembilan

According to Department of Islamic Development Malaysia (Jabatan Kemajuan Islam Malaysia) statistics, a total of 746 arrests have been made under the various state Syariah laws criminalizing 'male person posing as a woman' between 2008 and 2012.²⁵ The number of arrests in 2010 was significantly higher with 218 cases of arrest that year. Despite a dip in 2011, the statistics show a steady increase of arrests between 2008 and 2012. *I am Scared to be a Woman*, a 2014 report by Human Rights Watch, documents the experiences of trans women during this period.



Source: Pelan Strategik JAKIM 2015-2019 & Manual Islam dan Mak Nyah

More recently, in October 2020, about 30 trans women were given notices to appear for an investigation by the Kedah Islamic Department for 'wearing women's attire' in a raid of a birthday party in Jitra, Kedah.²⁶ The organizer, a cisgender man, was also investigated for 'encouraging vice'.²⁷ Amidst the economic impact of the Covid-19 pandemic, the trans women raised concerns that they experienced increased stress and anxiety over the prospective additional economic burden if they are tried in court.²⁸

Constitutionality of State Syariah Laws

In 2010, a group of trans women in Negeri Sembilan filed a constitutional review of Section 66 following a spate of arrests, which resulted in physical, verbal and sexual violence during their arrest and detention by officers of the state Islamic Department.

In 2014, the Court of Appeal declared Section 66 unconstitutional, as it contravened several constitutional provisions:

- Article 5(1) which guarantees personal liberty, right to live with dignity, and right to livelihood/work
- Article 8 (1) which guarantees equality before the law and equal protection of the law

- Article 8 (2) which guarantees no discrimination on the grounds of gender
- Article 9 (2) which guarantees freedom of movement
- Article 10 (1)(a) which guarantees freedom of expression. A person's dress, attire and articles of clothing are a form of expression

The Court of Appeal unanimously agreed that "the existence of a law that punishes the gender expression of transsexuals degrades and devalues persons with GID (Gender Identity Disorder) in our society. As such, section 66 directly affects the appellants' right to live with dignity, guaranteed by Article 5(1), by depriving them of their value and worth as members of our society."

The judgment provided an expansive reading of Article 10 of the Federal Constitution, which guarantees freedom of speech, assembly and association. Article 10(1)(a) states 'every citizen has the right to freedom of speech and expression'.

The Court noted that a "person's dress, attire or articles of clothing are a form of expression guaranteed under Article 10(1)(a)" by adopting the decision of the Indian Supreme Court in *National Legal Services Authority (NALSA) v Union of India* and others.

Additionally, the judgment reaffirmed that only Parliament may restrict freedom of expression in limited situations, as long as such restrictions are reasonable and as stated in Article 10(2)(a). The state legislative assemblies in Malaysia (which includes the State Legislature of Negeri Sembilan) have no power to restrict freedom of speech and expression. This is confirmed by the Supreme Court in *Dewan Undangan Negeri Kelantan & Anor. v Nordin Salleh & Anor*.²⁹

²⁰ Iskander, Kazimir Lee. "Not a Crime: A Gorgeous, Stirring Cartoon About the Status of Trans People in Malaysia." *Slate*, 7 Aug. 2015 <https://slate.com/human-interest/2015/08/transgender-in-malaysia-cartoon-about-the-jempol-arrests.html>.

²¹ Bedi, Rashvinjeet S. "Transgender Women Shaved Bald after Arrest at Bahau Wedding." *The Star*, 11 June 2014, www.thestar.com.my/news/nation/2014/06/11/transgender-women-shaved-bahau.

²² AR, Zurairi. "With Shaved Heads, Negri Sembilan Transgender Women Opt for Jail." *Malay Mail*, 11 June 2014, www.malaymail.com/news/malaysia/2014/06/11/with-shaved-heads-negri-sem-bilan-transgender-women-opt-for-jail/685521.

²³ Justice for Sisters' internal documentation from monitoring the case and supporting the communities in Semporna

²⁴ "Dewan Rakyat Parlimen Kedua Belas Penggal Kelima Mesyuarat Kedua." *Parlimen Malaysia*, Bil 28, 2012, p. 11, www.parlimen.gov.my/images/webuser/jkuasa%20lamp/DR-19062012.pdf.

²⁵ "Infographic: Overview of Arrest and Detention of Trans Women in Malaysia." *Justice for Sisters*, 20 Feb. 2018, justiceforsisters.wordpress.com/2018/02/20/infographic-arrest-of-trans-women-in-malaysia.

²⁶ Safwan. "30 Men Posing As Females Are In Trouble After JAIK Raids Birthday Party." *Hype Malaysia*, 30 Oct. 2020, hype.my/2020/201518/30-men-posing-as-females-are-in-trouble-after-jaik-raids-birthday-party.

²⁷ Jun, Soo Wern. "Rights Groups Concerned over Probe into Kedah Event Organiser for 'Encouraging Vice' after Raid against Trans Women." *Malaysia | Malay Mail*, 30 Oct. 2020, www.malaymail.com/news/malaysia/2020/10/30/rights-groups-concerned-over-probe-into-kedah-event-organiser-for-encouraging/1917958.

²⁸ Justice for Sisters' documentation

²⁹ [1992] 1 CLJ 72 (Rep) at 82

However, the Federal Court set aside the decision by the Negeri Sembilan High Court and Court of Appeal on Section 66 on technical grounds in October 2015.

Following this, in 2019, the Negeri Sembilan State Legislature amended Section 66 of the Negeri Sembilan Syariah Criminal Offences Enactment, which criminalised 'male persons who wear women's attire or pose as a woman' to include 'for immoral purposes'. The punishment has since been increased from 'a fine not exceeding RM 1,000 or a term of imprisonment not exceeding six months or both', to 'a fine not exceeding RM 3,000 or a term of imprisonment not exceeding two years or both'. Additionally, Section 66A was introduced to criminalise female persons who wear men's attire or pose as a man.

In addition to the state Syariah laws, the Guidelines on Film Censorship now prohibit 'scenes that depict transgender behaviour and lifestyle'.³⁰

State policies and programmes

Other than laws and *fatwas* that prohibit trans identities, there are multiple state-initiated anti-LGBT programmes, most of which focus on rehabilitation and conversion of LGBT persons. On 23 July 2018, then-Minister of Religious Affairs Mujahid Rawa listed the government-sponsored LGBT programmes in Parliament:

- JAKIM's voluntary treatment and rehabilitation programme, '*Ilaj Wa Syifa'*
- The **Mukhayyam program** - a 3-day camp introduced as a strategy to reduce HIV transmission among key affected populations, namely Muslim trans women. The programme, listed in the National Strategic Plan to End AIDS 2016-2030, aims to create awareness about HIV, Islam and being a good Muslim; offer job placement and financial assistance for startups; and encourage participants to abandon immoral behaviour, including one's sexual orientation and gender identity. There are also *Mukhayyam* camps for gay men and lesbian women. The Global AIDS Response Progress Report 2016 has noted that there is no evidence to prove the efficacy of this programme.
- **Seminars and programs** targeting students, school counsellors, parents, volunteers, health staff and representatives of Muslim NGOs, that encourage people to avoid committing 'LGBT acts', and encourage others to identify and curb 'LGBT behaviours' within their families, social circles, and workplace;
- **JAKIM's e-book '*Panduan Hijrah Diri'***

³⁰ *Guidelines On Film Censorship*. Ministry Of Home Affairs, 2010, [lpf.moha.gov.my/lpf/images/Perundangan/Garis_panduan_penapisan_filem\(1\).pdf](http://moha.gov.my/lpf/images/Perundangan/Garis_panduan_penapisan_filem(1).pdf).

(available on Google Play Store), and other publications, such as a compilation of hadith on 'LGBT acts' and a brochure '*Memahami LGBT dari Perspektif Seorang Muslim'* (Understanding LGBT from a Muslim's Perspective), which promotes conversion practices.

- **A 5-year action plan - *Pelan Tindakan Menangani Gejala Sosial Perlakuan LGBT 2017 - 2021*** (Action Plan to address Social Ills LGBT Behavior 2017-2021). This action plan, which aims to proactively and effectively curb 'LGBT behaviour', is endorsed by 22 partners, including the Ministry of Health, Ministry of Youth and Sports, Ministry of Women, Family Development and Community Development, state Islamic departments and other state agencies.

According to JAKIM's data, nine activities were organised under their 'treatment and rehabilitation programmes on gender confusion' in 2019, four seminars on gender confusion-related issues targeting the public, and five LGBT community intervention programmes:

- **2 mukhayyam programmes for the lesbian and gay communities;**
- **1 program appreciation of islam (preventing wayward life) for women prisoners;**
- **Forum for ex-trans people;**
- **1 ibadah (worship) national camp for gay and transgender community.**

JAKIM's Director-General said the 'gender confusion education, treatment, and rehabilitation programme' had reached over 1,700 LGBT persons since it began in 2011. He added that many have *berhijrah* (shifted positions) and are now assisting JAKIM and state Islamic departments as facilitators.

Human rights defenders who have raised concerns over the compliance of these programmes with human rights standards have been met with reprisals by state and non-state actors, including state linked ex-LGBT groups. In 2019, a human rights defender (HRD) faced backlash by conservative groups for describing the programme as amounting to 'state sponsored violence'.³¹ The HRD was called on to retract his statement and issue an apology for making allegedly baseless claims. He was also summoned by the police for an investigation.³²

In August 2020, another HRD faced reprisals by state and non-state actors for publishing content on conversion therapy in Malaysia, which included the Mukhayyam programme and other state-funded rehabilitation programmes via her social media accounts. Aside from online mobbing and harassment, at least four police reports were lodged against

³¹ Davasagayam, Kevin. "LGBT Activist Asked to Withdraw Statement against Mukhayyam Programme." *Www.TheSundaily.My*, 19 Apr. 2019, www.thesundaily.my/local/lgbt-activist-asked-to-withdraw-statement-against-mukhayyam-programme-FG796007.

³² "Evidence of State-Sponsored Discrimination against LGBT Persons." *Malaysiakini*, www.malaysiakini.com/letters/472951.

the HRD, including by JAKIM. JAKIM claimed the content was '... manipulative, malicious and seen as wanting to hinder and restrict the right to freedom of religion of Muslims in the LGBT community who want to lead a better life in line with the requirements of Islamic law'.³³

Such heavy-handed responses by the state against criticism of their programmes effectively curbs any objections raised and has a chilling effect on freedom of expression.

Discrimination against transgender persons

Suhakam's annual report, which was tabled in Parliament for the first time in 2019, highlighted the findings of the national human rights institution's study on discrimination faced by trans people in Kuala Lumpur and Selangor. According to the report,

The study revealed that all transgender respondents agreed that at some stage of their life, they encountered some form of discrimination solely due to their gender identity and expression. In addition, they also experienced harassment, abuse, and violence by the state authorities as well as non-state agents, no less the general public. Some indicated that they were victims of bullying in schools and tertiary education by peers, teachers and lecturers.

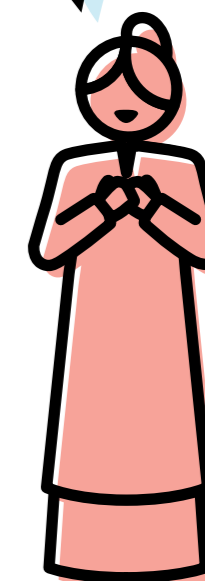
As adults, they were further discriminated against by various policies in the workplace and faced harassment in the workplace. It is also evident that transgender people not only face challenges in having their identity recognized but also in accessing basic public services such as healthcare and education. By ignoring sensitivities linked to their identity, public institutions have become hostile against the (trans) community. Even filling up forms could be a traumatizing experience for a transgender (person).³⁴

³³ "Jakim Lodges Police Report against Twitter Account Owner Regarding Mukhayyam Programme." *The Sun Daily*, 3 Aug. 2020, www.thesundaily.my/local/jakim-lodges-police-report-against-twitter-account-owner-regarding-mukhayyam-programme-BK3286715.

³⁴ "Suhakam Annual Report 2018." *Suhakam*, 2018, pp. 135-37, www.parlimen.gov.my/ipms/eps/2019-04-11/ST.31.2019%20-%2031.2019.pdf.

"They know that I am a transgender woman and sometimes they want to get blessing from me..."

(Rose)



International Human Rights Instruments

Malaysia has ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC) and Convention on the Rights of Persons with Disabilities (CRPD).

In 2018, Malaysia underwent two human rights reviews. In February, Malaysia participated in the CEDAW review on the status of women's human rights in Malaysia; Malaysia also underwent the third cycle of Universal Periodic Review (UPR) review in November 2018.

a.) CEDAW

These CEDAW Concluding Observations in relation to lesbian, bisexual, trans and intersex women are as follows:

Area	Concluding Observations
Education	36. (e) Adopts anti-bullying policies based on alternative strategies to address bullying, such as counselling services and positive discipline, and undertake awareness-raising measures to foster equal rights for LGBTI students.
Laws and policies	48. The Committee recommends that the State party undertake awareness-raising measures to eliminate discrimination and negative stereotypes against lesbian, bisexual, transgender and intersex women. It particularly recommends that the State party: <ul style="list-style-type: none"> a.) Amend all laws which discriminate against LGBTI women, including the provisions of the Penal Code and Syariah laws that criminalise same-sex relations between women and cross-dressing; b.) Apply a policy of zero-tolerance with regard to discrimination and violence against LGBTI women, including by prosecuting and adequately punishing perpetrators; c.) Expedite measures to discontinue all policies and activities, which aim to "correct" or "rehabilitate" LGBTI women.
Women human rights defenders	49. The Committee is concerned that women human rights defenders, in particular those advocating for Muslim women's rights, the rights of lesbian, bisexual, transgender and intersex women, as well as for democratic reforms, have reportedly been subjected to arbitrary arrests, harassment and intimidation by State authorities as well as religious institutions, including through the adoption of <i>fatwas</i> against women's organisations working on the above-mentioned issues. 50. The Committee recommends that the State party ensure that women human rights defenders can freely undertake their important work without fear or threat of arbitrary arrests, harassment and intimidation, including the issuance of <i>fatwas</i> by religious institutions, by fully guaranteeing their rights to freedom of expression, assembly and association. It also recommends that the State party provide capacity-building on women's rights and gender equality to law enforcement officials, members of the judiciary and members of religious institutions.

d.) UPR

Meanwhile, Malaysia received 11 LGBTQ-related recommendations (see Appendix 1). Ten of them, relating to criminalisation, legal barriers and protection in relation to discrimination and violence against LGBTI persons were noted; one of them, relating to education, was partially accepted.

Action points recommended in the UPR Cycles:

Action points	UPR Cycle 1 (2009)	UPR Cycle 2 (2013)	UPR Cycle 3 (2018)
Review and repeal laws that discriminate persons on the basis of their sexual orientation and gender identity as well as consensual sexual activities	2	5	5
Legal gender recognition			1
Protection against discrimination		3	7
Anti-bullying			1



Findings

The research found that the trans women respondents faced widespread restriction of freedom of expression in public and private spaces—at home, at work and in the employment sector, in educational institutions; religious spaces—both online and offline.

Restriction of freedom of expression in the workplace and in the employment sector is the most pervasive, manifesting in denial of employment, restricted access to gendered spaces at the workplace, and restrictive work environments.

The research findings will focus on freedom of expression in a few key areas:

1. Perception of trans women
2. Self expression and pressure to change
3. Employment
4. Family
5. Gender based violence
6. Access to justice
7. Access to public and private gendered spaces
8. Others

1. Perception of trans women in Malaysia

The stereotype and negative perception of transgender women in Malaysia has a profound impact on the way they express themselves, which includes their gender identity and gender expression as well as their thoughts and ideas. It also correlates with the spaces and opportunities that they have to express themselves.

The respondents shared that the society perceives transgender women as sinful, deviants, inferiors, and weak. They are seen as sexual objects, as sex workers, spreaders of HIV, as well as people who need to be ‘changed’, ‘corrected’ or ‘rehabilitated’.

Kamala who was admitted in a hospital because of an accident in 2020 was asked unrelated and intrusive questions about her sex life by the doctor, who assumed and stereotyped her as a sex worker. Kamala shared the discrimination that she experienced:

I received seven stitches. The doctor came in and asked for my name, at that time I was working in a factory. The doctor asked me, ‘one day how many customers? Do you use condoms? Do you give blowjobs or have anal sex? How many times do you give blowjobs? Their semen, do you consume it?’ He asked

me that. That is a different issue right. I said, ‘Hello doctor, excuse me, I work at a factory, I don’t do that work.’ Then the doctor didn’t say anything, and he left.³⁵

Denise, a trans woman from Sarawak, observes religion being increasingly weaponised against transgender persons in Malaysia by state and non-state actors alike. Although there are cases of discrimination against trans women in Sabah and Sarawak, Denise observed that there are differences of people’s perception in West and East Malaysia:

In the past four or five years, Malaysians, especially the Malays, when they see trans people, especially trans women, they have this stigma that we are full of sin, and we are people who have committed sins. And they use Islam as something to attack us with and degrade us to make the point that when someone is not good for the society, the religion will shun us.

But, in Sarawak, I think in Sarawak the pattern is less so, but in West Malaysia especially, they only see trans women as sex workers, working in Lorong Haji Taib. From their opinion, they don’t see anything good in us, they see us as sinful persons because we defy religion, and our role—if you are a man, you have to dress like a man and everything.³⁶

At least two respondents expressed that trans women are treated as unwanted stepchildren in Malaysia. Mel, a trans woman in her 30s, observed that:

It’s not that (society) accepts us or like they don’t accept us; it’s like, they know, they are aware of who we are, they know us. Because in Malaysia, the kind of gender [that is recognized] is only man and woman, so they look down on trans people. So far it’s challenging, because they look at us as if we are sinful.³⁷

Many of the respondents remarked that the environment in Malaysia is conservative and orthodox. They were very aware of the context in Malaysia and the repercussions of upsetting conservatives. Many also noted that trans women have to be cautious of their behavior, what they wear in public, not to *menonjol* or to stand out.

35 Interview with Kamala, 9 September 2020
 36 Interview with Denise, 23 August 2019
 37 Interview with Mel, 1 September 2020

Because some people can’t accept us transgender (people), it’s unpredictable. If they don’t like us, they could call their friends and assault us, rob us because to them, in their mind, transgender are the weakest people. Because in their head, transgender people are deviants, against God’s laws, so they can do whatever they want. People look down on us.³⁸

Nancy, who is her mid-20s, also shared similar views, and cautioned against the illusion of progress in the Klang Valley, where anti-LGBT and transgender sentiments are still rife:

Even [though] we like to think of ourselves in the Klang Valley as like the bastion of progressiveness in Malaysia, we still have a long way to go. Being under cover, I can still hear a lot of casual transphobic statements and I can feel animosity and hatred towards LGBT and transgender people in particular.³⁹

These observations are consistent with the findings of the *Public Opinion of Transgender Rights in Malaysia* report by the William Institute. The survey of 500 Malaysian respondents found that the “attitudes towards transgender persons were largely unsupportive.”⁴⁰ The study noted that a higher number of respondents agreed that transgender persons are committing a sin,⁴¹ and that they are violating the traditions of the respondents’ culture.⁴² Most respondents disagreed with efforts for Malaysia to do more to support and protect transgender people.⁴³

Visibility and representation of trans women

Denise also noted that the increased visibility of trans women on social media often draws more attention to trans women, and not always in positive ways. According to Denise:

This pattern (of being negatively perceived) became worse especially when Nur Sajat, Safiey Ilias, and all these social media (influencers) emerged. The bashing, through social and electronic media, like tv, the bashing against trans

persons is getting worse.⁴⁴

Similar to Denise, Melur noted that increased visibility of trans women on social media has had an impact on “the smaller ones and those at the bottom, in the villages and those struggling to make ends meet.”⁴⁵

Julia reflects that her freedom of expression has become more limited in recent years. She has increasingly become aware of how being visible and open about her own gender expression could have a negative impact on the safety of other trans women. This suggests that trans women’s ability to express themselves is influenced by many factors, including perception and safety of the trans community in general.⁴⁶

The experiences from respondents point to the complexities around the visibility of trans women. The hateful comments and reactions to trans women who are social media influencers make, not only the influencers, but also trans women in general vulnerable to state prosecution. Given the current Malaysian context, simply by existing, trans women fall outside the boundaries of what is considered permissible behavior and are therefore seen to be flaunting themselves on social media. The backlash from social media then impedes trans women’s freedom to express themselves safely, ultimately shrinking spaces for trans women to exist.

In the media, respondents noted that affirming narratives about trans women are scant, as are opportunities for representation in the public sphere. For example, the lack of media coverage of Nisha Ayub’s receipt of the International Women of Courage Award in 2016 and other international accolades for her activism in the mainstream print media.

In contrast to media coverage of Ambiga Sreenevasan’s receipt of the international Women of Courage in 2009,⁴⁷ Nisha Ayub hardly received any coverage in the print media despite being the first trans woman globally to receive the award. Instead, there were many comments by online users disputing her gender identity.⁴⁸

In 2018, Nisha Ayub’s portrait was censored in an exhibition in conjunction with Malaysia Day, on the basis that her portrait along with a portrait of another LGBT activist ‘promote the LGBT lifestyle.’⁴⁹ Similarly, there was a public uproar when it became known that Rania Medina, had been appointed as the civil society representative from the transgender

44 Interview with Denise, 23 August 2019
 45 Interview with Melur, 9 October 2019
 46 Interview with Julia, 30 September 2020
 47 Noordin, Zalinah. “Ambiga to receive US Award for Women.” *The Star Online*, 6 Mar. 2009, www.thestar.com.my/news/nation/2009/03/07/ambiga-to-receive-us-award-for-women.
 48 Jo-Lyn, New. “Why Are Msians Arguing over This Melaka Girl Winning a U.S. Award?” *CILLSOS - Current Issues Tambak Pedas!*, 7 Apr. 2016, cilisos.my/why-are-msians-arguing-over-this-melaka-girl-winning-a-us-award.
 49 Amran, Siti Nur Mas Erah. “Mujahid Orders Portraits Removed, LGBT Activist Asks ‘What about Our Sensitivity?’” *NST Online*, 8 Aug. 2018, www.nst.com.my/news/nation/2018/08/399446/mujahid-orders-portraits-removed-lgbt-activist-asks-what-about-our.

community for an oversight mechanism for the Global Fund. Rania Medina received threats, including death threats, her personal information and pre-transition photos were disclosed without her consent, and there was public calls to review her representation⁵⁰ in the oversight body.⁵¹

While there is a push to implement a 30% quota system for representation of women in decision-making roles in all spaces,⁵² similar policies do not exist for trans women, and the existing policies often do not include the voices of trans women.

The lack of representation is made more difficult by censorship laws and regulations that prohibit "scenes that depict transgender behaviour and lifestyle"⁵³ and prevent affirming representation of transgender people in films in Malaysia.

Another factor that limits the positive representation of trans women is the biased representation in the media. Often, biased representations of trans people are evident, particularly in Malay language media.

Politicisation of gender in Malaysia

The respondents also shared that the trans and LGBTQ issues are often politicised in Malaysia and have expressed that the community vulnerable to political scapegoating:

I am also a voter in Malaysia. I voted in the previous elections. After the last election I personally felt that, because the Alliance Coalition or Barisan Nasional fell, the LGBT issue came out, Nisha's photo was removed from (the exhibition) Penang. From there, I sensed that, oh that means because my community is so small, maybe this is a community that is not in the front, always at the back, so people take advantage in that sense, up (sensationalise) our stories, until today. We're always used by politicians.⁵⁴

Jo, a non-Muslim trans woman, observes that politics in Malaysia also has a significant impact on the change in societal attitudes. With the increase of religious and racial politics in Malaysia, transgender women often bear the brunt of public scrutiny, public morality and gender policing.

Politics is one thing, but it's what

the politics of Malaysia has done to the society itself. It's changing, it's making people forget why they are Malaysians. Because we used to be a very beautiful culture. I remember, but not now. Even with the current government, I still have the inkling to go over to Thailand. I am actually mentally dysfunctional right now, soul and heart, because of the politics, and all these religious factors. It doesn't affect me anyway, because these are Islamic-based issues. [But] seeing it happen, in a country that was very beautiful and well respected.

Fact of the matter is that I don't feel a sense of security anymore here in Malaysia. And I feel it whenever I am back in Thailand, it feels like home. People are more genuine compared to Malaysia. People in Malaysia used to be genuine, but because of corruption, not money corruption, but the corruption of the mind, soul, you can't blame them *lah*.

All these laws, we are in democratic state, but we are still condoning all these discriminations, I think it's shameful. Now it seems like the discrimination is from society itself. It's on the condemning phase, like social media. *Pondan* is bad luck, *bapok* is bad luck, a tsunami is coming, an earthquake is going to attack Malaysia, Chinese go back to China, things like that *lah*.⁵⁵

Similar to Jo, many respondents expressed disillusionment and frustration with Malaysian politics and noted that they have not benefited positively from participating in the electoral and democratic processes. Denise explains:

I hate Malaysian politics—it's a mess, it's dirty. I don't even register myself as a voter. It's not worth it. It has nothing to do with me. Even the change of the government, or change the Prime Minister or whatever it is, it has no impact on trans people. Since the 1970s until now, there has been no impact. The government did not help us in any way.⁵⁶

Kamala, who became unemployed due to the Covid-19 pandemic, left Malaysia to find employment in neighbouring countries because of the discriminatory workplace environment and constraints imposed on trans women. She compares the situation in Malaysia with other countries:

50 Online, The Star. "Health Ministry: No Need to Review Rania Zara Medina's Appointment." *The Star Online*, 11 July 2019, www.thestar.com.my/news/nation/2019/07/11/health-ministry-no-need-to-review-rania-zara-medina-appointment.

51 Interview with Rania, October 2019

52 Rashid, Hidir Reduan Abdul. "Not Mandatory to Have 30 per Cent Women Representation in Politics, Says Hannah Yeoh." *NST Online*, 26 November 2018, www.nst.com.my/news/politics/2018/11/434660/not-mandatory-have-30-cent-women-representation-politics-says-hannah.

53 *Guidelines On Film Censorship*. Ministry Of Home Affairs, 2010, p.13 [http://lpf.moha.gov.my/lpf/images/Perundangan/GARIS_PANDUAN_PENAPISAN_FILEM\(1\).pdf](http://lpf.moha.gov.my/lpf/images/Perundangan/GARIS_PANDUAN_PENAPISAN_FILEM(1).pdf)

54 Interview with Samantha, 6 September 2020

55 Interview with Jo, 22 August 2019

56 Interview with Denise, 23 August 2018

That is why I don't like Malaysia, I go out to find a job. Singapore respect. No problem. I am like this. I am like this everywhere.⁵⁷

Similarly, Asha noted that there is very little or no support from the Malaysian government for trans persons. There is a high level of persecution and restrictions of freedom of expression of trans people by ministers and government bodies. Although the political environment makes her feel weary, it does not affect her desire to speak truth to power when given the opportunity. Asha observed:

So, our ministers in Malaysia, the Ministry does not support or come forward to support the trans community. I am fed up with politics. They say transgender is like this, transgender is like that, cannot wear women's clothes, arrest all of us. So, everytime I hear things like that I feel very fed up. If given the chance to voice out, I really want to (speak out).⁵⁸

Being a good example

Rose shared that she has to prove herself to her colleagues, employers, landlord and people around her, a common feeling shared by many of the respondents. The respondents expressed that they not only have to exceed expectations, but also face additional pressure to present themselves as good examples or a good person in accordance with conservative societal norms in order to counter the negative perception and discrimination against transgender persons. Rose expounded:

The first time anywhere is very difficult. If you can't face the challenge you will lose. You must show a good example. People have the impression that we are trouble makers. For example, if you work with a couple, the woman is sometimes worried about the husband looking at the trans woman. The husband is probably looking at other women too, and that doesn't usually result in people being denied opportunities. Because the perception against transgender people is negative, we have to show a good example so that they change their minds.⁵⁹

This is a tough situation for many trans women, as Fara explains that being stealth or being able to blend into mainstream society is not an option for many trans women.

Sometimes people can't accept it. The impact is strong for transgender women

57 Interview with Kamala, 9 September 2020

58 Interview with Asha, 30 September 2020

59 Interview with Rose, 10 October 2020

because you have to prove to them and exceed their expectations. Even so, you cannot cover your identity because you're very visible. It's tough, darling.⁶⁰

Meanwhile, at least three respondents shared that they minimise their visibility or hide their identity to reduce their exposure to harm, including being reported to authorities, family members, employers or others, by selectively coming out to people who they can trust, which in itself is a challenge given the lack of gender recognition, the notion of passing, and gender binary constructs. Nancy shares:

I've been minimising my exposure to such harms, mostly by coming out to people I know I can trust or I know, because if I tell everyone, they might report me to the authorities. And family? Right now I am not so sure, I guess, on the one hand they seem supportive and on the other, I am not sure as I am still living with them. But yeah, I'm doing many of these tactics to minimise the harmful risks.⁶¹

Beth, on the other hand, suppressed her gender identity, as she feared her visibility and knowledge of her gender identity could result in violence and discrimination against her:

When I was still repressing the fact that I am trans, there was a period, about a year before I started transitioning, I knew I was going to do it. Because the knowledge that it could be used to hurt me, it could be used to blackmail me and all of these things.

And even [when I] started to transition, I kind of divided my life into places where I felt 100% comfortable talking about myself and what my identity is and what I think; and spaces where I felt I had to modify my appearance, the way I spoke, be careful about what I said. I had to compromise heavily in order to feel safe and visible and capable of moving around in public. Over time, I've gradually felt more comfortable about these things. There are still restrictions. I'm still very careful about how I look and sound, and what I say, and the kinds of people I allow to have more detailed knowledge about my identity.⁶²

Fazura's experiences speak to Nancy and Beth's concerns. Fazura shares that she has experienced a change in attitude in some people when she comes out to them as a trans

60 Interview with Fara, 14 August 2019

61 Interview with Nancy, 29 June 2018

62 Interview with Beth, 24 July 2019

woman. She observed that cisgender men, in particular tend to be lewd, perverse and sexual when she shares her gender identity with them. In some situations she has managed to refuse their sexual advances, while, in some situations she has had to give in to the sexual advances to, ironically, protect herself from further harm:

When we disclose or reveal our gender identity, some of them will be surprised and change their behaviour by being immoral towards us. So one of the challenges we encounter is when these people have this label where most trans women are into prostitution to satisfy their sexual desires.

So there are some situations where I expressed my gender identity when they tried to propose (court) to me, [and then] they changed their behaviour and were more straightforward about whatever had been on their minds. They start asking direct questions—'I want you to BJ (fellatio) me'. So there are times where I managed to step away; however there are times that I failed to step away, where I needed to entertain that kind of physical abuse in order for me to get away safely.⁶³

Eliza, a Malay trans woman in her 50s, on the other hand, noted that she feels more restricted and is more afraid of her personal safety now compared to in past decades. This is evidenced by changes in her behaviour on social media and in public spaces. She is cautious of what she posts online to not trigger attacks by online users, and she developed a fear of encounters with the authorities whenever she is away from home.

She shared that her fears were mostly attributed to the political environment and speeches by state actors in Malaysia in relation to trans and LGBT people as well as human rights. Her concerns are compounded by the rising hate speeches that are made with impunity, the arbitrary application of laws in relation to trans people, and the lack of freedom of expression in general. Eliza shares:

Honestly, I feel more afraid now compared to 20 years ago or 10 years ago. The main reason is because of the current government now. Twenty years ago I could go out without feeling scared to encounter the authorities. I do want to speak on human rights but what is restricting me are the existing laws and the mindset of those who follow the current government's trend. Meaning, government agencies are also on Twitter, they are on Facebook, they can release laws that restrict freedoms, right?

Because they (online users) release a statement they get arrested. So I feel the citizens now have been influenced and this has caused me to be more careful with whatever that I post on social media. And then there are statements to arrest *mak nyah*. *Mak nyah* become afraid. We feel like we are being suppressed, pushed. In this current situation, we feel like we are second-class citizens, like a stepchild.⁶⁴

These experiences show a clear causal link between the respondents' freedom of expression and the existing perception of trans women and gender-based discrimination and violence in various spaces, not just against themselves but the trans community as a whole.

2. Self-expression and pressure to change

While almost all of the respondents were able to express themselves as trans women, they face varying degrees of on-going restrictions in relation to their gender identity and gender expression in both public and private spaces, including at home and at work, and in accessing gendered spaces (social, religious, and public amenities), in particular toilets, on a daily basis. In online spaces, on the other hand, many trans women face aggression and violence for merely being and expressing who they are.

Fazura's experiences capture the challenges faced by trans women in expressing themselves in gendered religious spaces. Her uncertainty around how she should express herself underscores the gender binary constructs that exist in spaces of worship and society generally. It demonstrates the lack of access and ability for trans women to exercise their freedom of religion or belief, which includes the freedom to manifest one's religion or belief in teaching, practice, worship and observance either alone or with others in private or public.⁶⁵

Being a transgender woman, we have some small worries that everywhere we go we might expect backlash from everybody. But in terms of being in religious places or being with family, we are quite worried. I can say I faced challenges when I am in religious places, like mosques. Until now I can say that I have no idea how I should be dressing in a mosque when I want to do activities like pray or meet somebody. However, to the extent that I am able to express myself, I can say that I am able to freely express

myself to the maximum limit.⁶⁶

At least four respondents shared that they were in the process of transitioning and were unable to transition. The English-speaking respondents in Kuala Lumpur and urban areas mostly used the language and concept of transition. Transition as a word is not widely used or understood in some Malay speaking communities. The Malay speaking respondents described and broke down transitioning into several categories—wearing women's clothes, taking hormones, undergoing surgery.

One respondent, Nancy, shared that she is unable to transition, as she lives with her parents who are not fully accepting of her gender identity. She lacks access to trans-specific healthcare in Malaysia, which in turn exacerbates her gender dysphoria. The respondent is only able to express themselves in online spaces, where she finds supportive communities, despite the high levels of online gender-based violence against trans women.⁶⁷

Another respondent shared that she feels more comfortable expressing herself online as opposed to offline, as it provides some level of anonymity and invisibility, which also gives her the time and space to figure out her response. Beth says:

Real life I guess, being physically present in spaces, that could be more challenging because in online spaces you have kind of a veil of anonymity and invisibility, you can take the time to figure out what you're going to say, and carefully craft how you are going to come across.⁶⁸

Factors that enable and restrict freedom of expression

Some of the factors that affect one's freedom of expression, including freedom to express their gender identity and expression, thoughts and ideas are linked to perception and acceptance of transgender women, vulnerability to violence and discrimination, impact on their business or employment, proximity and relationship with their family members, among others.

Transgender women respondents working in the government sector in general enjoyed less freedom of expression in their workplace and outside of work. The respondents reported that they change their gender expression in compliance with the workplace dress code and guidelines, and are more cautious of expressing themselves in public, even after work and outside of the working environment.

Ramlah, a trans woman who works in a government educational institution shared:

For me, there are two situations. The

first one, at my workplace, I express and present myself in a way that people may perceive me as a man. Outside of my workplace, I express myself authentically as a transgender woman. But, I am also cautious of the situations, places, and who I share my experiences with, maybe because I am a government employee.

There are consequences. I am cautious because I don't want to be overexposed. I also don't go out as much. Even if I hang out, it's mostly with my trans women friends, and only with them I express myself.⁶⁹

Meanwhile, Anna, a business owner, finds herself restricting her self-expression on social media to avoid any negative impact on her business and unintentionally pushing away prospective customers.

At the moment I don't express myself because I am afraid of the online users on social media; not all of them can accept me being like this. So I feel it's better for me not to express my thoughts and self at the moment as many of my customers do come from social media, and those are my business clients. Not all of them can accept me. So I don't share too much about myself, just private sharing with friends.⁷⁰

Some respondents also stated that they do not initiate discussions on certain subjects, such as religion, gender equality and politics. They will however, respond and correct misconceptions in relation to transgender persons online and offline alike.

Nancy, who is in her 20s shared that she sometimes reacts to current events, for example, the Malaysian Trades Union Congress (MTUC) and the Malaysian Employers Federation's (MEF) rejection of the International Labour Organisation's (ILO) on Violence and Harassment⁷¹ due to inclusion of protection for LGBT workers.^{72,73}

Pressure to change

Many respondents had experienced being told to change or 'return to the right path' by their family members, colleagues,

69 Interview with Ramlah, 6 September 2020

70 Interview with Anna, 6 September 2020

71 "ILO: New Treaty to Protect Workers from Violence, Harassment." *Human Rights Watch*, 28 Oct. 2020, www.hrw.org/news/2019/06/21/i-lo-new-treaty-protect-workers-violence-harassment.

72 Timbuong, J. "Treaty Rejected over LGBT Clause." *The Star Online*, 26 June 2019, www.thestar.com.my/news/nation/2019/06/27/treaty-rejected-over-lgbt-clause.

73 Vengadesan, Martin. "Yes, It Was LGBT Factor Which Made Us Say 'No', Confirms MEF Boss." *Malaysiakini*, 27 June 2019, www.malaysiakini.com/news/481423.

64 Interview with Eliza, 30 September 2020

65 "Universal Declaration of Human Rights." *United Nations*, www.un.org/en/universal-declaration-human-right

66 Interview with Fazura, 11 July 2019

67 Interview with Nancy, 29 June 2019

68 Interview with Beth, 24 July 2019

63 Interview with Fazura, 11 July 2019

intimate partners, employers, friends, and even strangers. The pressure, which manifests in the form of 'advice' or disapproval, sometimes has religious overtones, and evokes self-guilt and self-blame within the respondents for shaming their parents or family members because of their gender identity and expression.

The respondents expressed that such situations cause them discomfort and annoyance, but many respondents have developed responses or strategies to deal with such situations.

A respondent shared that, although her family accepts her and has not pressured her to change or 'return to the right path', she faces such pressure from the general public, including strangers. She explained:

It's the general public—they always tell me to change and all that. My response is, 'Okay, God willing.' Sometimes they like to bring up my mother: 'Your mother is no longer alive. Don't you feel bad for your mother?' I usually tell them, 'Ha, it's okay. God willing, if there's opportunity I will change, okay. You don't have to bring in my mother, Auntie.'⁷⁴

Meanwhile, some are deeply affected by these social pressures, which in turn contribute to internal conflicts about their identity and, by extension, their existence. The research highlights a combination of factors that seem to contribute to the way in which the pressure affects respondents, which includes:

- Lack of access to sexual orientation, gender identity, gender expression, and sex characteristics (SOGIESC) information. In many cases, the knowledge of gender identity and self comes solely from a patriarchal and non-inclusive interpretation of religion;
- The conflation of gender identity and sex work results in a skewed perception of their identity;
- The notion of sin and being a sinner was a recurring theme with some respondents. While the respondents are aware that they are in sex work because of the employment discrimination they face, they see both their gender identity and sex work as sinful. This notion of sinning is also reinforced by the general public, religious institutions, and family members, among others. As a result, the respondents are more susceptible to succumb to these pressures.
- The respondents appear to internalise multiple forms of guilt, blame, shame, and violence. The respondents appear to believe that their mistreatment is deserved, and therefore they do not hold perpetrators accountable. Instead, they accept their mistreatment as a

⁷⁴ Interview with Siti, 9 September 2020

consequence of choosing this path (being a trans woman).

Internalised transphobia is defined as "discomfort with one's own transgender identity as a result of internalising society's normative gender expectations".⁷⁵ In addition, minority stress is a theoretical framework that interrogates the "relationship between minority and dominant values and the resultant conflict with the social environment experienced by minority group members."⁷⁶ The theory posits that "sexual minority health disparities can be explained in large part by stressors induced by a hostile, homophobic (and transphobic) culture, which often results in a lifetime of harassment, maltreatment, discrimination and victimisation."⁷⁷

An adaptation of the minority stress model posits that "internalized transphobia is a minority stress process resulting from the internalization of negative attitudes and prejudices from society."⁷⁸ The Transgender Identity Survey: A Measure of Internalized Transphobia summarises the three ways in which internalised transphobia commonly manifests among transgender and gender non-conforming persons:

- Experience of intense shame and guilt about their identity;
- A desire to conform to binary ideas of gender and sex to avoid stigma related to transgender persons, non-binary and gender non-conformity in general. They may also hide or suppress their feelings about their gender and identity, by attempting to express themselves as their sex assigned at birth or appear as cisgender persons;

Disassociation with other transgender persons due to internalisation of prejudice and social stigma in relation to transgender persons or avoid exposing themselves and their gender identity.

However, the study notes that the manifestation of internalised transphobia correlates with the social context that they live in, and may change over time. For example, while a trans person may experience intense shame about themselves, they may not have negative attitudes towards other trans persons. Some could also become less concerned with suppressing, changing, or hiding their identity over time, especially within the LGBT communities.⁷⁹

At least four respondents were conflicted about their gender identity and the notion of 'returning to the right path' or changing, although they currently live as women and

⁷⁵ Walter O. Bockting, Michael H. Miner, Rebecca E. Swinburne Romine, Curtis Dolezal, Beatrice "Bean" E. Robinson, B.R. Simon Rosser, and Eli Coleman. LGBT Health. January 2020. 15-27. <http://doi.org/10.1089/lgbt.2018.0265>

⁷⁶ Dentato, Michael P. "The Minority Stress Perspective." *American Psychological Association (APA)*, Apr. 2012, www.apa.org/pi/aids/resources/exchange/2012/04/minority-stress.

⁷⁷ Ibid.

⁷⁸ Walter O. Bockting, Michael H. Miner, Rebecca E. Swinburne Romine, Curtis Dolezal, Beatrice "Bean" E. Robinson, B.R. Simon Rosser, and Eli Coleman. LGBT Health. January 2020. 15-27. <http://doi.org/10.1089/lgbt.2018.0265>

⁷⁹ Ibid.

are in romantic relationships. They are also aware of the pressure exerted by people around them to change. All four respondents shared that they frequently experienced hostility, disapproval and pressure to 'return to the right path' by their family members, friends, teachers, peers, colleagues and the state because of their gender identity. This includes being constantly told, among other things, that they are sinners, that the Prophet Muhammad does not acknowledge them as followers of Islam, and that they comprise the people of Lot. Most of these experiences began in their childhood, and have continued into adulthood.

A respondent, who attended religious school, shared that she was isolated and segregated in school by the school administration because of her gender expression. She was considered as a 'special case' and was assigned an *ustaz* (a religious teacher) to have one-on-one classes with her. She experienced multiple forms of humiliation, aggression and bullying in school, including being dumped in the dumpster, having urine thrown at her, and being harassed. As an adult, she has been arrested and harassed by the state Islamic Department for "posing as a woman".⁸⁰

She still faces internal conflicts about her identity, and in fact changed her gender identity and presented herself as a cisgender person at one point in her life. At that time, she engaged in *dakwah* (preaching) activities targeting the trans women communities. She would advise them to change in order to avoid arrest.

I used to meet the trans women communities. I said to them, 'I used to be a trans woman too. Do you believe me? But why can I wear a songkok (a cap worn by Muslim men) now? I am not forcing you to change because the heart cannot be coerced. But, change, don't be a woman. Otherwise they will catch you and put you in prison'.

She added that she battles mental health issues, including depression and suicidal ideation. She feels a great sense of burden dealing with issues in relation to perception and acceptance of her gender identity and gender expression not only when she is awake, but also when she is asleep, in her dreams. Her mind is constantly thinking and rationalising the dissonance between her identity, and the state, religious institutions and societal perception of transgender persons:

Of late, I feel there is a tiny voice that says, 'You are living a useless life. What is the purpose of you living? What for?' The voices are there every now and then, and it makes me ask myself, 'Do people like me deserve to live in this world? Should I just die?' When I think about death, I can't imagine it. I don't know what my life will be after I die. I experience depression and seek advice from my friends.

⁸⁰ Interview with Sonia, 9 September 2020

They say, 'one of the causes of depression is overthinking.' That's what people say. But we do have to think of death, as it gives you *pahala* (rewards by God). Being reminded of death is a form of *pahala* for us. My friend who studies psychology tells me, 'It is okay for you to believe in doomsday as a Muslim person, but the issues that you are experiencing and that manifest in your dreams points to the problems that you are thinking about. So, don't focus all your energy on one problem only.'⁸¹

Another respondent shared that sometimes she asks herself when will she change, and at times she discusses it with her friends. She genuinely wonders what it means to change. She is in a relationship with a cisgender man, and she often discusses the future of her relationship with her boyfriend. She tells him that, "I know that you will get married, and I will get married at some point. Just let me feel happy for a while." Her friends usually express dissatisfaction and revulsion when she expresses herself as who she is, resulting in her asking herself what she has done wrong as she did not ask to be born as a transgender person.⁸²

She also shared her experience of being reprimanded by her then-employer everyday from the first month she started working at the company. Without fail, her employer would remind her to cut her hair, ask her when she will change her gender expression and identity, causing her depression and stress. After observing her work performance and outputs, the pressure and reprimands reduced to once a week. She eventually left the job and moved back to her hometown to care for her mother who was ill.⁸³

A respondent from Sarawak in her late 30s shared that she faces pressure from her intimate partner to change and present herself as a man. She says that he does not like her to wear makeup, especially if they are out in public places. He wants her to not humiliate him. Although her boyfriend is a non-Muslim man, he uses her religion and age to shame and guilt her into changing her gender expression. While she is aware that she will not be able to change who she is inherently as a person, the concerns over the lack of support in her old age, and being continuously subjected to discrimination are among the factors that led her to be masculine presenting.

He wants to change me from expressing myself as a woman to expressing myself as a man. He teaches me to wear men's clothes. He said, 'how long do you want to wear women's clothes? Even though you are soft, you should learn to wear men's attire. One day you will be old, and if you are wearing women's clothes, who wants to respect you? Don't tell me you want to

⁸¹ Ibid.

⁸² Interview with Alia, July 2019

⁸³ Ibid.

dress like this till you die. Furthermore, you are a Muslim.'

'Imagine what your nieces and nephews will feel when you are older, how will they respect you? You don't have a wife or kids. If you are simple, maybe they will accept. But, if you dress up, you will humiliate them. People will tease them, "ehhhh, your uncle is a pondan." If you are simple maybe they will be able to accept you,' he said.

I thought about it, and he is right—if I were to change my appearance a bit—but I cannot remove it, I am naturally soft. I can only change it in terms of dressing. I have friends who ask me to wear women's clothes, but I don't want to. I do (wear them sometimes) but I don't want to be like before because I am already 37 years old. I can pass away anytime. That's why I said earlier, how will people respect me? Even though I express myself like this people still know that I am *pondan*. It's really based on your own comfort level.⁸⁴

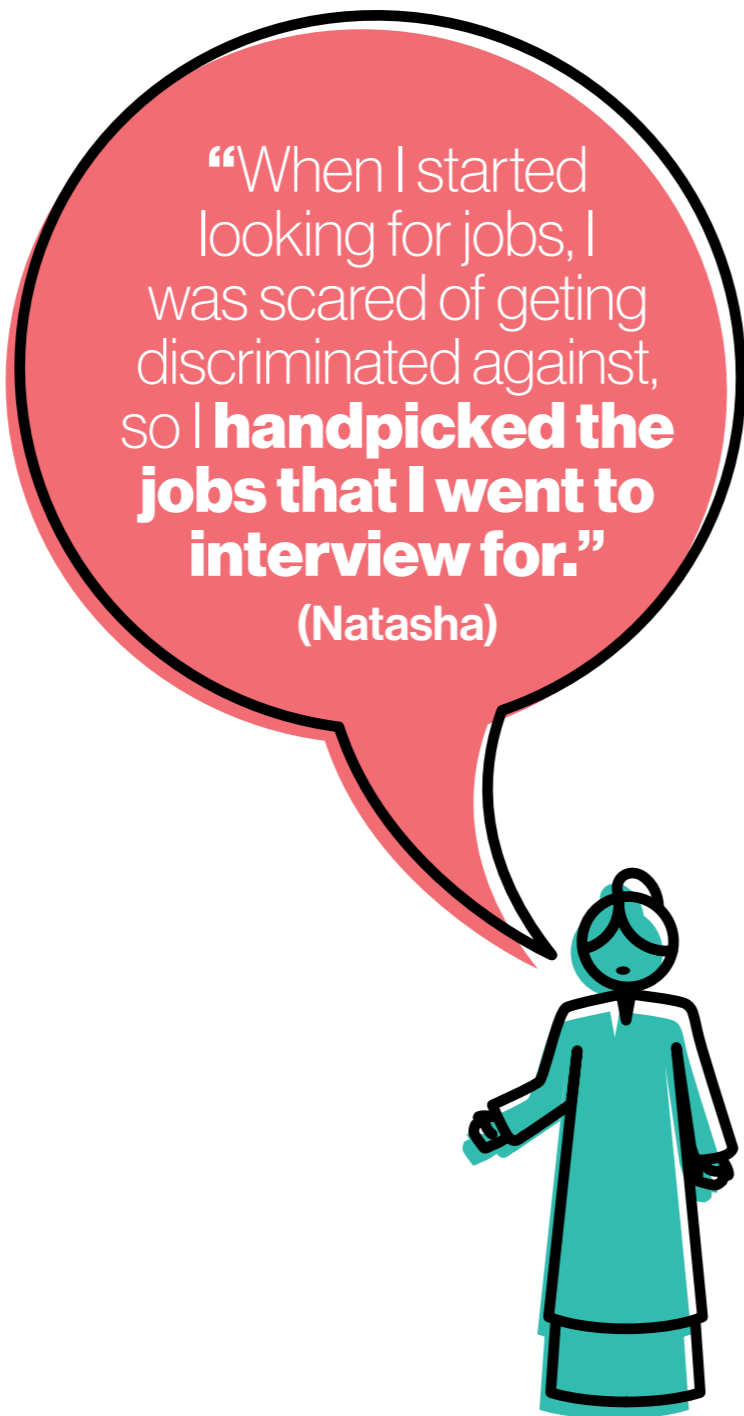
In addition, she was also convinced to change her gender expression because of her job and restrictions that she faced from her employers in expressing her gender identity. Her employers do not allow her to wear makeup or wear women's attire as they claim it makes the customers feel uncomfortable. She also feels that she is vulnerable to being bullied and the shop will be vulnerable to theft if she expresses herself as a woman, reinforcing gender stereotypes and the notion that women are weak. By presenting herself as a man, she feels she will not only be able to circumvent such unwanted incidents, but also keep her job, given the lack of employment opportunities in Sarawak.

If gangsters or bad people come to the gold shop, they can bully me. If I am soft, the jewelry could be stolen, so I have to dress like that so that people are afraid, like there is a man here. Because the things that I sell are not cheap. But I feel secure with this job now.⁸⁵

The media representation and coverage of trans people correlates with the pressure respondents experienced from their family members to change their gender identity and gender expression. A respondent shared that she receives frequent reminders from her family members to change herself. Sometimes these reminders are triggered by media coverage of transgender issues in the media, ostensibly Malay language mainstream media. She shared:

There are times when they (family

members) read the papers, and when it comes to issues about mak nyah, they will call me and ask me to take care of myself, and not do unnecessary things. Family will remind me, they will say, 'how long are you going to be like this?' But I am firm with myself; this is who I am. These pressures are normal, but I understand that I cannot be like this forever, at some point I will change, but it will take time, but on the spot we cannot change, it will take time.⁸⁶



“When I started looking for jobs, I was scared of getting discriminated against, so I **handpicked the jobs that I went to interview for.**”
(Natasha)

84 Interview, 23 August 2019

85 Interview, 23 August 2019

86 Interview, 6 September 2020

Case study:

Yearning acceptance and transference of pressure

Natasha is in her late 20s, and lives on her own. She does not have fond memories of her childhood. She recalls her parents doing “plenty of things to her” because of her gender identity. She says her father left her mother and her when she was a child, and they soon divorced.

Her mother remarried years later. Similar to father, her stepdad too could not accept her as a trans woman. She said,

“Sometimes my mother is caught in the middle between her husband and I. Although I am a trans woman, I love my mother, if our mothers don't pray for us, don't bless us, how will the child change? To go towards good without their prayer and blessing (is challenging). This makes me stressed.”

She says,

“I present myself as who I am—I wear makeup, contact lens, my long hair—the usual. I just don't wear clothes that are too feminine in front of him. With my mother, it's okay. He can't scold me because I am much older now. No, it's just that he is tired of talking.”

When Natasha goes back to visit her family members, she tends to distance herself from her stepdad if he is home. Similarly, he tends to distance himself from her too. She says, “as a child, you want to communicate with your dad, but till today he does not speak to me. He has never spoken to me, he finds it difficult. If he comes home he will quickly go to his room, to avoid me.”

Her only opportunity to talk to her mother is when her stepdad is not at home. When he is around, her communication with her mother is limited to exchanging glances and eye contact.

Natasha has many relatives, and they are a source of her stress. She says the questions and comments that her parents receive from her relatives, neighbours and her parents' friends about her gender identity shocks them and adds stress on her parents, especially her stepdad. The stress is then transferred onto her and manifests in the form of pressure for her to change or 'return to the right path'.

She says that although her mother does not pressure her, she understands that her mother has a husband who pressures her mother. She does not blame her stepdad, and she understands his situation.

She *redha* (accepts), and rationalises her situation, as she feels she chose this path. She also views her situation as a test by Allah, as much as it has a negative impact on her, which she feels is normal, as it is part of the life journey of a trans woman, “Whether you like it or not, you have to accept it.”

In order to avoid conflict and hostility, she prefers to withdraw from the situation and isolate herself. She feels that is the only solution.

3. Employment

Almost all respondents (56 out of 60) had experienced employment discrimination, either during the hiring process or in the workplace because of their gender identity and gender expression. Three respondents, who previously worked in the private sector, became unemployed due to the Covid-19 pandemic. Meanwhile, the rest are self-employed (online business entrepreneurs, sex workers) and employed in the formal sector (government sector, private sector, non-profit sector). Two respondents did not have any formal work experience, as they are students.

Sector or type of employment	Number of respondents
Government sector	4
Private sector	13
NGO	7
Self employed, including sex work	29
Unemployed	5
Student	2

Discrimination in the hiring process

Almost all respondents had experienced discrimination during the hiring process. This includes:

- denial of job opportunities because of their gender identity and gender expression; they were asked if they are a man or woman;
- being questioned of their capability to carry out the job based on preconceived ideas of transgender women and binary gender stereotypes;
- imposition to adhere to a gendered dress code and gender expression based on sex and gender binaries, including hair length and styles; and
- restrictions of access and use of gendered spaces at the workplace based on the gender marker on their identification card.

The respondents also shared that even if they passed as cisgender women (and as a result evaded some of the discrimination based on their gender expression), they are often out-ed by the gender marker in their identification card. Denise shared:

I went to a bank in Kuching for an interview in 2011. The interviewer just said straight to my face: *'I am so sorry we*

don't hire people like you at the moment. Maybe you can try other companies. They didn't use any degrading terms, they just used 'people like you'—me. I did go for other interviews where they did not know that I am a trans woman, and thought that I am (cis) woman. At first you think that, *'ah okay I can get this job'*. They said they would call me later, but I think when they saw my IC and saw 'male', they didn't call me back.⁸⁷

In some instances, the discrimination faced by the respondent intersected with religion and race.

A respondent shared that she was denied a job at a beauty salon on the grounds of religion. Despite the fact that the saloon allowed interaction among genders and had no visible markers identifying the establishment as Islamic, the prospective employer rejected her job application on the grounds that the salon is a Muslimah salon.

It was implied that the presence of a trans woman employee would make Muslim cisgender women customers who wore the headscarf uncomfortable and reluctant to expose their hair, which is considered as *aurat* or modesty among members of the opposite sex. The justification also suggests that some employers may feel that by hiring a trans woman, they are complicit in encouraging the existence of trans women—who are perceived as being inconsistent with the teaching of Islam.

The respondents shared common stories of being rejected for employment, where prospective employers would tell the trans women that they would receive a call back in three days, but they never did. Sonia shared:

When we go for job interviews we know our intention is to work so I wear according to the protocol *lah*. I cannot be going for an interview in a dress. I follow their protocol when I go for interviews. But then they ask me, *'are you a man or a woman?' and 'why are you like a woman? Can you do the job?'* They think, *'If I were to hire them and ask them to lift heavy things, they won't be able to do it, because they are soft.'* I have experienced this before. After the interview, they say, *'okay, I will call you.'* That's it. Not only in one place, but many many places.⁸⁸

Given the pervasive imposition and conditions by employers that trans women express themselves based on the identity reflected on their identification card, some respondents shared that they were willing to do so. While some respondents were masculine presenting during the job interviews in order to secure a job, unfortunately, sometimes they fall to short in their attempt to express themselves as a cisgender man. Natasha, who has applied for six government positions, shared:

⁸⁷ Interview with Denise, 23 August 2019

⁸⁸ Interview with Sonia, 9 September 2020

I have applied for a job at a university. It was the same. I applied for jobs at the café, the library, and it's the same. I went in men's attire and all that. But yeah, the hair is ours, and we can't change that. At that time, my eyebrows... my intention was to get a job, I didn't wear makeup and all that. But they knew. They saw my name—it is a man's name—and they saw my face—it is a female face. They asked me, *'Are you a trans woman?'* I said *'no, sister'*. They said, *'It's okay, fill up the form first, and we'll confirm in three days.'* I waited for three days and nothing happened.⁸⁹

Kamala, who lost her job as a result of the pandemic, shared that she approached at least seven companies for employment. Five companies rejected her application because of her gender identity. Meanwhile, two others were willing to hire her on the condition that she used the male toilet because her identification card said 'male'.

Aya, a trans woman in her 30s, shared that although she had not experienced discrimination during the hiring process, the experiences of other trans women had made her afraid of getting discriminated against. She shared she assessed the friendliness of her prospective employers before attending job interviews:

When I started looking for jobs, I was scared of getting discriminated against, so I handpicked a lot of the jobs that I went to interview for. I had friends who are in there or just [through] referrals—people from who had worked there before confirmed that the employer is actually very accepting—otherwise I would not go for the interviews. For that reason, I was kind of hidden away from a lot of the discrimination that a lot of my other friends faced.

I think it (discrimination) is out there for sure, which was the reason why I was afraid in the first place; because my friends had told me stories before about their first-hand experiences. Yes, to know that I am working in the corporate sector and they are accepting and that it is possible in Malaysia to be respected... it makes me very grateful. It does make me more resilient in a way that I want to make sure that everyone else gets to feel what I feel. More companies should follow suit in what this company is doing;

⁸⁹ Interview with Natasha, 6 September 2020

more people should be as open.⁹⁰

Discrimination in the the workplace

Other respondents employed in the private sector shared that they have experienced:

- misgendering at the workplace;
- restricted access to gendered facilities, including toilets and lockers;
- being given uniforms based on sex assigned at birth;
- orders to change their gender expression, for example by suggesting a haircut;
- name-calling and taunting, including being asked when will they change; and
- misogynistic jokes.

At least two respondents shared that they were terminated because of their gender identity and gender expression. Aishah's contract was terminated after a string of complaints, allegedly from customers and colleagues, for using the female toilet and prejudicial attitudes by her colleagues:

Two years ago, I worked at a car dealership for 3 months, and then I was terminated because of gender issues. I used the female toilet and they said that they received a complaint from a customer. I don't believe that it's from a customer. I don't mind if it's from a customer, but I don't think it is true. My contract was discontinued because there's a transgender here (at the workplace). Transgender cannot be here, so they terminated me. I think this came from the management.⁹¹

Asha shared she experienced frequent name-calling and violence when she was working as a sales person at her previous workplace, a textile company. She was undermined and lacked support by her colleagues and the management. In one incident, a colleague used racial slurs against her and spat at her. Although she complained to the management numerous times about her colleague's behavior, no actions were taken.

Instead, the management took the side of the perpetrators and advised Asha to change her gender identity and gender expression. A management staff taught her how to walk so that she would be less susceptible to taunts and harassment by her colleagues. She was also reprimanded, scolded and given warnings for being herself and expressing her gender identity. After two years, she finally left the job. Asha's experience as well as others underline that the experiences of discrimination

⁹⁰ Interview with Aya, 24 May 2019

⁹¹ Interview with Aishah, 10 June 2019

and violence intersect with religion and race, among others.⁹²

Siti, a trans woman in her late 20s, shared that she transitioned on the job. While the workplace did not restrict her from transitioning, they did not take proactive measures to affirm her identity and allow her to use facilities that reflect her gender identity:

They (employers) tell me that I have to use the men's toilet. I just go with the flow because when I started working with the company at 18, I had not transitioned, and used the men's toilet. After transitioning, I did ask them about the toilet, but they said they will discuss it. I don't want to debate them so much. It's okay, I said. I will continue.⁹³

The pervasive job discrimination has left the respondents with not only limited options of employment, but also missed opportunities for self-development and growth. Two respondents shared that they were unable to apply for jobs in their areas of interest, and had to resort to any type of employment that was willing to hire them. Some have engaged in sex work as a result of the lack of employment opportunities. The respondents were also aware of the fact that other than their gender identity, their age, religion and other intersecting identities also factored into their employability. Rose shared:

I wanted to work in human resource (HR) but because of my age, it's very difficult to get jobs. So I can't find a job that will suit my qualifications and skills. My friends say that I should just accept whatever jobs I get. Because of the discrimination it's difficult for people to accept me, in hotels, HR.⁹⁴

Sonia said that she cannot afford to be picky when it comes to jobs, as she has to prioritise her family, her needs and survival.

I have applied for jobs based on my interest. I have applied for a job as a beauty expert job or beautician. For example, at a salon that needs a makeup artist. But when we go there, they say, 'No we can't hire you because this is a Muslimah salon'.

Because now, what I need is a job to help myself and my family. So, for example, 'oh this job is not suitable for me. I cannot be a cleaner,' or whatever. We cannot say things like that because I don't want to let go of the opportunities.⁹⁵

Some respondents have compartmentalised their lives and gender identity simply due to survival. Some do not see the situation that they are in as a form of discrimination, rather as a choice that they have made in order to get what they need—a job.

The respondents who are employed in formal sectors, especially the government sector, shared that they present themselves through masculine or androgynous gender expressions. This causes multiple forms of restrictions and denial of full participation at the workplace such as work-related activities.

The impact is pervasive and goes beyond the workplace, as some respondents report avoiding public events that may result in encounters with their colleagues or employers, as well as anxiety over being outed or reprimanded because of their gender identity and gender expression. Three respondents who previously worked or are currently working in the government sector shared that they are unable to express themselves, and are forced to conceal their identities to avoid discrimination at the workplace.

Lulu, who was previously worked as a dance instructor in the government sector, left her job because of discrimination on the basis of her gender identity and expression. Her colleagues and others in the government agency would often give her the cold shoulder. Moreover, she lacked the financial support to carry out her work, and was vulnerable to being reprimanded by her department. This un-conducive environment made her worry about her gender identity. She recalled:

It's all at the workplace. Because we go to formal places, right, so when we meet with people, people are always negative. That's what I used to experience, and things like that demotivated me to continue to work. Because when I used to work in the public sector like schools, they know that we are trans, but when we teach, there are boundaries that we need to adhere to, and we cannot go beyond that.

Like when we engage with the government departments for donation, it's challenging. When they see us managing the project, they will not entertain us. So many times, I have gone up and down to their offices, and many times, I don't get the financial support. When it comes to official matters it's very challenging because the staff in the government sectors discriminate against trans (people).⁹⁶

She added that working in schools made her vulnerable to complaints, not only by her colleagues, but also parents. In

order to avoid being outed, including on social media, and having actions taken against her, she left her job. Similar to the other respondents working in the government sector, she was also subjected to humiliation, gossip and accusations of having sexual relationships with the students by her unsupportive colleagues, resulting in her being blacklisted by the school. While she had colleagues who supported her, the religious teachers in the schools were against her. Lulu recounted:

When I worked as the dance instructor, I was a bit worried about gender-related issues. Because I worked in the public sector, what more in government schools, that was a concern to me, to the point that I decided to quit. Because I have heard of many cases that have happened because of gender issues like this. When we go to the schools to teach, people see us, they see our identity.

That's my concern. The school did not have a problem, but I was worried about the parents. Because these days viral issues are popular, I was afraid of people making an issue of why there is a trans (woman) teaching in government schools. I was worried about any actions being taken. I was afraid...

My colleagues have accused me things that I didn't do. When I teach, they humiliate me, and spread rumors that I was doing terrible things with the students. As a result, I was blacklisted by the school. Because the teachers, when they see things that they don't like, they like to accuse people of things. Because I didn't want this issue to become big, I left the school.⁹⁷

These experiences expose gaps in terms of protection of workers' rights around pre-employment discrimination and discrimination at the workplace, be it in the government or private sectors. Without any protection and access to recourse, the respondents are left with limited options for employment and are vulnerable of falling into poverty.

Self-employment and social media

Transgender women have been commonly associated with and known as *mak andam*, or "ritual practitioners whose roles include planning weddings and beautifying brides."⁹⁸ The role of *mak andam* can be played by a cisgender or transgender woman, and sometimes even cisgender men.⁹⁹ As *mak andam*,

they are involved in many aspects of the wedding, from constructing the *pelamin* or wedding dais, recommending wedding outfits, performing rituals to enhance the beauty of the bride,¹⁰⁰ and in ensuring "adherence to the Malay wedding customs and rituals".¹⁰¹

However, these cultural practices are eroding due to growing conservatism, enforcement of discriminatory laws, reinforcement of the gender binary, and competition by new and upcoming wedding planners. As a result, trans women are losing their livelihood in an environment where they already face increased job discrimination.

Two trans women who worked as *mak andam* had to find other employment as a result of a decrease in business. Melur, a *mak andam* from Johor explained:

There is increased competition now, and some offer really low prices. There are more cisgender women who are now doing bridal make up. I have heard some incidents of cisgender women wedding planners who tell people not to engage us because we are transgender women. We are unable to compete.

A few years ago, the Mufti or Jabatan Agama (religious department) said not to engage *mak nyah* wedding planners. That did have an impact on us as they [clients] will look for cisgender women instead of trans women for wedding planners. Two years ago, I could get five to six jobs per week; now, I can't even get a job. I had to get another job.¹⁰²

Meanwhile, Kalsom shared:

I only started working at this current place for a year. Previously, I worked as a wedding planner. Makeup [work] has reduced. The customers prefer cisgender women makeup artists. It's a trend in Johor, where people want to engage cisgender women makeup artists. I think stigma by society attributes to this too. And, it's *rezeki*. Previously, I could get at least one or two jobs per month, but this year, I have only had four jobs. It's a stark drop. So I have to find another job, and cannot wait on this.

If I were to go makeup brides, the Islamic Department officers will ask who did the makeup. There were a few brides who shared this with us. They sometimes advise the brides not to engage trans

92 Interview with Asha, 30 September 2020

93 Interview with Siti, 1 September 2020

94 Interview with Rose, 10 October 2019

95 Interview with Sonia, 9 September 2020

96 Interview with Lulu, 14 August 2019

97 *ibid.*

98 Michael G. Peletz, *Gender Pluralism: Southeast Asia Since Early Modern Times*, Routledge, 2009, p 188-189.

99 Michael G. Peletz. *Reason and Passion: Representations of Gender in a Malay Society*, Berkeley: University of California Press, 1996. p. 127.

100 *ibid.*

101 Balqis, Iza. "Mak Andam - Can You Go Without One?" *Kahwin.Sg*, 9 Mar. 2018, kahwin.sg/mak-andam-can-you-go-without-one.

102 Interview with Melur, 9 October 2019

women *mak andam*. I heard it two years ago.¹⁰³

Social media has also created new avenues for trans women to create alternative employment for themselves. While this has led to new livelihood opportunities, it has also led to the increased visibility of trans women entrepreneurs on social media platforms and exposure to gender-based violence, including sexual harassment. Cassie, a trans woman in her 20s, was sexually harassed through her Instagram account for her bridal business:

My Instagram is to promote my other work—I do bridal makeup. There are people who inbox you weird things. I block them. It happens all the time, but with different people.¹⁰⁴

While Denise has her own business, she says the employment discrimination and the lack of employment opportunities cause her stress. Her online business does not provide a stable income for her:

Now that I am 37 years old and I don't have a permanent job, that really makes me stressed. It's very hard to find a job in Kuching. It really troubles my mind because I have no income every month.¹⁰⁵

Good practices

Other than Aya (see p.30), at least six respondents working in the private sector are accepted at their workplace, and they are able to express themselves as who they are. Fazura shared a good practice adopted by her employer, who had briefed the employees in the company about her prior to her joining the company, and reminded them not to discriminate against her.

Even before I was hired by this current company, the person who hired me had reminded everyone in the office that he will be hiring a transgender woman. He said that he reminded the other employees to not discriminate, and to treat me equally as a woman.

When I came in, there were some people who maybe didn't pay too much attention as to whether I am a transgender woman or not. Some of them knew about who I am, and reacted very naturally, like *'oh really,'* and like, *'we have one in the office.'* There were some people who were terribly surprised, like, *'What?! Really?!'* and *'you look so good in terms of your looks and your voice and*

personality and so on, cannot tell that you are a trans woman'—something like that.

Maybe they had certain preconceived ideas about trans women, like when they (trans women) show a good personality as a woman, they cannot detect. Some even congratulated me that I am in the office. They also said that I am not like the other people working in prostitution.¹⁰⁶

Nonetheless, while she feels the environment allows her to change her colleagues' perceptions and stereotypes of trans women, she still faces resistance from them.

Sabrina, a trans woman in her mid-20s from Sarawak, shared that while her superior has no issues with her gender identity and gender expression, she is usually masculine-presenting at work out of respect for her superior for not discriminating against her and giving her opportunities. At her workplace, her job requires her to attend meetings with people of diverse backgrounds and to make presentations. She feels a sense of responsibility to uphold the company's reputation and fears that people may not accept her. She was previously confronted by an intern at her workplace, who questioned her for wearing women's attire to work. Nonetheless, she admits that she has the desire to express herself for who she is at work:

If I was really given a choice, I would want to wear office attire for women. But, as long as I have respect there, my boss is good to me, there is no discrimination at all, I respect them back, I dress as properly as I can. For me, it's good for me to be on my boss' good side even though my boss doesn't care... I don't like when my boss asks me to attend meetings because I will meet many people.

I am afraid that people will not accept me. I will have to make a presentation and carry the reputation of the company. So I am afraid people will not accept me, and it will affect the company's reputation. So far there are no issues, because my boss is always with me.¹⁰⁷

Denise recounted her experience seeking employment as a fresh graduate and as a young trans woman. At that time, she felt insecure about expressing her gender identity due to fears of being denied employment opportunities. As a result, in the first few months, she wore a short-hair wig, wore men's attire and presented herself through masculine expressions. Denise recalled:

When I graduated in 2007, I first applied for a job in customer service

with a telecommunication company in Malaysia. I had to wear a short wig and men's clothing when I started working there because of my own insecurities as a new graduate. So I was afraid that if I were to express myself—my identity—at the interview, for such a big company back then, I didn't think they would accept someone like me.

It's a taboo for someone like me to work in a company like that. But, after six months working there, I went to see a superior, and I asked her if I can come to work without my wig and just tie my hair? She said I can be who I am, just make sure that I tie my hair. Since then I dress freely as a woman.¹⁰⁸

Reena, a trans woman in her early 40s shared that she came out to her employers and colleagues, and shared how she would like to be addressed and the toilets that she would be using at the workplace. She said:

Where I am working now, initially they thought I was a man, and then I told them that I am a trans woman, I told them that I will use the female toilets. At the beginning they were weirded out because the factory had been open for 20 years but they have never seen a trans woman that worked there. They don't mind me using whatever toilets. They accept it. At the factory, I also tell them to call me by my chosen name, but sometimes there are people who call me by my full name (a dead name) but most of them call me by my name.¹⁰⁹

Even in 'friendly' environments, trans women employees may not feel confident or comfortable expressing their gender identity. Reena, Denise and Sabrina's experiences stresses the importance of gender diversity and inclusion trainings for employees and interns, policies against discrimination, harassment and violence, among other measures at the workplace to create a conducive work environment for trans women employees.

The respondents also shared that in some instances, the supportive colleagues and management have defended the rights of the respondents when complaints are lodged against them because of their gender identity and expression, and allowed them to express themselves in accordance with their gender identity. However, their situation at the workplace becomes precarious when the allies in the company leave and there are no policies to protect transgender women against discrimination.

Fara, a 30 years old trans woman from Sabah, had to leave her 4-year supervisor job at a local hotel when her supportive colleagues left and a new manager was hired. The manager advised Fara to change her gender expression by cutting her hair and present herself as a male person if she intended to keep her job as a supervisor. The manager stressed that she needed to set a good example for others.¹¹⁰

"'Do you want to go watch a movie?' My cousin would suggest. When I say I want to follow, they will say, 'you don't have to come along lah'..."

(Laila)



103 Interview with Khalsom, 9 October 2019

104 Interview with Cassie, 23 August 2019

105 Interview with Denise, 23 August 2019

106 Interview with Fazura, 11 July 2019

107 Interview with Sabrina, 23 August 2019

108 Interview with Denise, 23 August 2019

109 Interview with Reena, 9 October 2019

110 Interview with Fara, July 2019

Case study:

Working in the government

Fatima and Amelia work in government, specifically in the education sector.

Fatima

“When we work in the government and we identify and express ourselves as a woman, it is wrong in the government sector. During work time there is no freedom. After work, we are ourselves,” says Fatima.

Fatima, who works as a teacher, says that she is not comfortable to accompany students to camps, but she has to. During these outdoor camps, she has to hide her long hair under a wig and a cap. She has also transitioned, and having to share a room with another teacher makes her uncomfortable, as her colleagues are mostly unaware of her gender identity. She said that to avoid the discomfort, she opts to rent a hotel room for herself. Sometimes, her colleagues ask her why she does not want to share a room with them; she usually gives excuses. For example, *‘it’s nothing, I have a friend who will be visiting me later.’*

While some may know of her identity, no one has complained about her or confronted her. Fatima has had friends who have been called by the National Registration Department (Jabatan Pendaftaran Negara) as a result of complaints lodged by parents after being spotted outside as a trans woman. Her friend was advised by the district education department however no other actions were taken. She fears this will delay promotion, or result in her being transferred to another school, and have a negative impact on her productivity. These incidents worry her, despite her desperation to be herself. As she wants to avoid causing trouble, she opts not to mix her personal life and work.

However, she has been called in by the principal of a school that she was working at after receiving a letter with photos of her being a trans woman. The principal did not take any action, and understood her. The principal stated that the school is not interested in policing the staff’s lives outside of work, unless it is drug related. However, Fatima is aware that the magnitude of the reaction is dependent on the principal’s personality.

She said that she is aware of the fact that she is *‘lembut’* or soft. Her strategy is to get the people around her to respect her as a person. Sometimes the situation can be stressful, fearful and anxiety-inducing, as she has to control her self-expression all the time. She sometimes asks herself, *“why can’t I be myself?”*

When she teaches her students dance, she sometimes unconsciously breaks character. She then worries about the consequences, including losing her job and creating problems for herself. At the same time, she can’t help reflecting on how liberating expressing herself would be. She said, *“Oh no, why did that only happen for a split second. Why didn’t I just let people see who I am?”*

Amelia

Amelia, who works as an administrative staff at a school, says that she doesn’t have a problem with dressing as a man based on the government requirements. People are aware that she is *‘lembut’*, and some of her colleagues have asked her about her gender identity. She has ignored them and as much as possible tries to avoid such issues, as she does not want to deal with such issues and risks. She wears a wig to school.

When she is at work she is forced to express herself as a man, although she is not comfortable. At work she does not think about how she looks and focuses on her work. It is only when she is back home that she thinks about her identity. Like the others, she also feels it is important for her to perform her task to the best of her abilities.

She said there are many trans women who face similar issues in the government sector. She said if they were allowed to express themselves that it would be a bonus. Amelia limits her movement and participation in public activities, including going to night markets, funfairs, and carnivals in the town that she works in as she worries about bumping into her colleagues and of it becoming an issue.

When she first started working in the government sector she was not aware of their rules and regulations, and she freely expressed herself in the town that she used to work in. Consequently, her colleagues reported her to the Education Department, and it snowballed into her being counseled by the State Education Department. They asked her about her different gender expression in school and outside, and recommended that she be disciplined as a government staff. The incident affected her at the time.

She was isolated by her cisgender men colleagues and faced restrictions if her name was suggested to accompany students for competitions or trips because she is a trans woman. She was also accused of teaching students to have sex when issues about students having sex in the hostels emerged. Her colleagues said, “The students were influenced, because there is a transgender woman here. She taught them to have sex.” The complaint to the Education Department led to her being exchanged with another staff from another school.

As a result, she became more cautious of how she expressed herself. At the same time, she was worried about being terminated.

She says the experience has taught her many things. She has since studied the laws and guidelines so that she is aware of the actions that can be taken against her, and the actions that she can take should such incidents occur again.

Amelia believes God is on her side. A few years later, the staff that was exchanged with her created problems in her former school, and her colleagues begged her to return to the school again. Amelia refused, and filed an appeal to the Education Department to reverse the transfer decision. Her appeal was successful.

4. Family

Family and family members are a significant part of the lives of trans women, and they wield a considerable amount of influence on the way trans women express themselves, particularly at home.

The interviews revealed that some extended family members of the respondents impose restrictions, or contribute to the existing lack of acceptance and restriction of their gender identity and expression. Although extended family members have considerable influence over trans women’s parents and other immediate family members, the respondents are able to stand up to them or dismiss their views at times because they are not their immediate family members. Alia shared:

If it’s my own family, I am okay. It’s only with others, for example, relatives, or neighbours, that sometimes I feel slighted. Because I am soft, I don’t look more like transgender, I look more like [a] soft man. When I am home, they will say, *‘Why do you have to be like this? Don’t be so soft. Why do you need to wear lipstick? Why do you need to wear eyeshadow?’* Things like that.

Sometimes I wear makeup at home right. They say, *‘[You] don’t have to do that.’* There are some who support [me]. There are some who don’t. The most pressure comes from my auntie. She will poke. I have stood up for myself. I have said that this is my right (to express myself). I said that but she was like, *‘Yes you are right, but as family, I have the right to advise you.’* I can’t say anything beyond that. I kept quiet.¹¹¹

In Fara’s situation, although her family members accept her, she still experiences gender policing, surveillance and threats made by her extended family members for being a woman and ‘being sexy’. Fara shared:

My cousin said he will tell my mom that I am being sexy and being a girl. I said it’s okay I don’t care because my mom knows, because this is me. Me being a soft male who has wanted to be a girl since I was a kid. People who live in my house know who I am, you don’t know anything about me.¹¹²

There are a few types of relationships—characterised by degrees of acceptance—between trans women and their family members that were identified through the interviews:

- Full acceptance: Family members accept

111 Interview with Alia, 9 September 2020

112 Interview with Fara, July 2019

the trans women family member without conditions;

- Conditional acceptance:
 - Trans women family members are tolerated with occasional pressure to change. Sometimes conditions are imposed on how they can express themselves;
 - Family members accept their trans women family members. However, the respondents choose to dress modestly or in unisex clothes in order to prevent their parents and family members from being questioned or humiliated by their neighbours;
- Non-acceptance: Trans women family members were not accepted.

At least 18 respondents said that their family members accept them without conditions, although some family members showed resistance in the beginning of the respondents’ transition.

It is also important to note that there is no consensus on what is an accepting or affirming family. In some instances, while the respondents may have said that they have accepting family members, the description of their relationship suggests otherwise. For example, a respondent said that her family members somewhat accept her although she receives frequent pressure to change herself. For her, having cordial relationships with her family members and being able to be present in their lives can be considered as somewhat accepting.

Meanwhile, other respondents consider being allowed to dress and express themselves as women as accepting, although the family members may not acknowledge them as a transgender person or woman. Their family members could still acknowledge them based on their sex assigned at birth while remaining silent on their gender identity. This very clearly correlates with the lack of access to accurate and affirming information on transgender persons and gender identity.

Two respondents shared that their parents and family members supported them when they came out as transgender girls or women. Denise shared that she came out to her parents at the age of 15, and transitioned the following year with her family’s support. Mina, a 22 years old trans woman, shares that her family members accepted her when she came out to them. Mina shares:

My family supports my transition. I came out to them, and they supported me. The only thing is that they said don’t dress sexy, like wear short pants. My mother helped me to buy clothes.¹¹³

Asha, who is in her 40s, shared that she did face resistance from her family members when she was a teenager, but her family members have come a long way now in accepting who she is. These days, she shared that she is able to openly

113 Interview with Mina, 23 August 2019

discuss her romantic relationships with her family members. Asha said:

My family then ... now it's only my brother and my sister, just two of them. So, now they have no problems. They are now okay. They see me as just another person. With family, they always ask, 'eh, do you have a husband now?' I say yes. So, sometimes, I will take photos with my boyfriend and send them to them. Things like that also happen.¹¹⁴

Similarly, Bell, a trans woman of Chinese descent, also shared that her family members, who were initially not accepting of her when she was younger, have now changed their attitude towards her. She now expresses herself freely at home. She attributes the change in their attitude to her having a job. Bell explains:

My family now is okay, they understand this. At home I am like this. They understand, and they no longer care if I wear women's clothes. They don't have the energy. Back then yes, about 10 years ago, after that slowly...slowly they got tired, and now they don't have the energy to advise me any more. The most important thing is work. At that time, they weren't angry; they just asked questions like 'why are you like this?'. That's all.¹¹⁵

Meanwhile, the remaining respondents experience mixed tolerance, ranging from sporadic pressure and advice to change themselves to outright rejection. At least four respondents shared that their family members do not accept them because of their gender identity and gender expression. Despite that, the respondents still visit their family members and try to maintain a cordial relationship, even if that means toning down their gender expression. Selvi shared:

I wear women attire all the time except when I go to see my family; I don't wear women's attire. They are okay, they know. They said that you can do whatever outside, but when you come home, I have to respect them. But it's okay, it's not a great situation, but we are like this. They are not strict. I am the eldest and my siblings want to get married, I don't want to be a barrier. When I was younger I left home, but now it's okay. They came looking for me. And then they weren't upset anymore.¹¹⁶

Fifi shared that she tones down her expression and opts for long pants when she visits her family members out of

respect for them. She also observes a difference in terms of gender expression in the cities and rural areas, and takes that into consideration when she visits her family members. Fifi explained:

In terms of family acceptance, they accept me, though not entirely; as people say, there are boundaries that we need to understand when we go back to our hometown. Although I live in the city and we are like this, we cannot do the same when we are in our hometown—wanting to wear short skirts—cannot like that. We want to face our family, so like this, dressed like this, wearing pants.¹¹⁷

The interviews revealed that respondents across different age groups, ethnicity, religious backgrounds faced restrictions and lack of acceptance from their family members. The interviews show that the respondents' face, among other things, continuous pressure to change their gender identity and gender expression, restrictions to self expression, isolation, violence, and dismissal of opinions by family members because of their gender identity and gender expression.

Sally, a 60 years old trans woman, shared that she was not able to express herself as a woman due to fear of rejection and lack of acceptance by her family members. She longs to be her true self, just like her friends, but her fears of rejection and vulnerability to violence by her family members have impeded her self-expression. Sally recounts:

If I go back to my hometown, I wear like normal. Like [a] man but you can see, soft lah. I don't wear women's clothes. If I don't wear normal clothes, I will get hit. Wearing women's clothes—no. But secretly yes. Like my sisters' lipstick, when they are not around. I steal their clothes, yes. I really want to be a woman but until today, I am already old, I still cannot.

You want to know what I wanted to be? I used to imagine me being a pretty woman during the day. Sometimes I see my friends, they are all successful, but I cannot. I used to follow their style (in their footsteps) but I cannot because of my family, scared I didn't tell them. They don't know. They always ask me to get married, 'why are you so weird?'. They wanted me to quickly marry a woman, and come back to my hometown. I just want to run away, leave.¹¹⁸

The respondents shared that often questions and remarks by extended family members, neighbours and others add strain on their relationships with their family members. Alia shared

that her extended family members have sought assistance from their acquaintance in the police department to monitor her movements. The acquaintance followed her and took photos of her, which were later used to stage an intervention in relation to her gender identity. Her relatives warned and disapproved of any form of medical transition.

At least three respondents shared that they experience isolation from their family members, including extended family members. Laila shared that her extended family members often reject her offers to spend time with them, especially in public spaces. Their actions sadden her, but she finds comfort in the trans women community. The issue of shame in being associated or seen in public spaces with the respondents is a recurring theme among the respondents. Laila shares:

Sometimes, they want to go out and if I were to tag along they don't want [that], especially my cousins. Like they don't want to be together with me. My extended family members do not want to be seen in public with me so I just go out with my friends and community. Sometimes my big family, they don't want to be seen in public with me. I cannot force them. I understand that they are ashamed of me. I just do things with my community. Sometimes I feel disheartened when they isolate me.

'Do you want to go for a movie?' my cousin would suggest. When I say that I want to follow, they will say, 'you don't have to come along lah'. I will say okay, that's fine. That's how they isolate me. It's my big family only.¹¹⁹

Typically, in a hierarchical family structure, the eldest child is given the authority or role to lead or facilitate decision-making, or make decisions on family-related matters. A respondent, Fara, shared that although she is the eldest child in her family, the lack of acceptance of her gender identity by her family members resulted in a lack of respect for her opinions and views. Her family members often use her gender identity to dismiss her views, substantiate their disagreements, and win arguments. She observes a similar trend with her colleagues. While she counters their arguments, her long-term strategy is to present herself as a good example to change their perception and stereotypes about her and trans women in general. She shared:

Whenever there are situations where I need to express my opinion which differs from the rest of my family, they always try to relate who I am to the decision that I am about to make. They disagree with the excuse that 'look at who you are, you are not on the right path in this world', 'who do you think you are to make

this decision?' So with regards to family discussions, some of them always relate my gender identity with whatever they disagree with.

They will use my gender identity to make them win arguments or make their decisions happen. We talk and they will say 'you do not have full rights', 'you are not qualified to make that decision', 'look at who you are—who are you to advise me?' That's one of the challenges.¹²⁰

Another respondent shared that she has received extra pressure from her parents as her sister is also a transgender woman. Her parents see her as a bad example to her sibling, and blame her because her sister is a transgender woman. Consequently, her sibling has expressed feelings of animosity towards her because of the lack of acceptance that they both face by their parents. Sonia shares:

My sister actually, she is still ... my mother actually is still in the process of accepting her. Because my mother says, 'It is enough to have only one (trans) person in this family. Please not two.' Because my sibling once said to me that she hates looking at me.

And she stopped talking to me for a few months. Because she knows that I am a trans woman. My youngest sibling is now a transgender. I always receive pressure from my family actually. When my sibling is like that, people always blame me because I am a bad example and all that.¹²¹

As a result, the respondents also choose to live on their own in order to have more freedom to express themselves and to avoid conflicts with their family members. Alia shared:

Honestly, when I visit my family members, I am more masculine. But when I am outside or anything, with my friends, I am more feminine. The other day, my mom said, 'You as a man, [you] have to be a man. In the Quran that's what it says. In the Quran, man is man.' So I said to her, 'I didn't ask to be like this. I did not ask to be born like this.' I said that.¹²²

Hana, a trans woman in her late 20s, said that she feels stressed because of the lack of acceptance and conditions imposed by family members on her gender identity. Hana shared that she bottles up her feelings. She has also faced

114 Interview with Asha, 30 September 2020

115 Interview with Bell, 1 September 2020

116 Interview with Selvi, 9 September 2020

117 Interview with Fifi, 6 September 2020

118 Interview with Sally, 9 September 2020

119 Interview with Laila, 23 August 2019

120 Interview with Fazura, 11 July 2019

121 Interview with Sonia, 6 September 2020

122 Interview with Alia, 9 September 2020

physical violence from her family members.¹²³

At least two respondents shared loss of support systems and allies in the family as a result of death. At least two respondents in their early 30s shared that they had ran away from home and attempted suicide due to lack of family acceptance. For one, the passing of her brother, who was her only ally in her family, left her with no support system. When he was alive she expressed that she was better off dead if she continues to face pressure from her family members to change. Laila shared:

For example, my mum. If you want me to be a man again, if you want to change my personality, you want to change my inside, you want me to do everything inside out, better I die. If you don't want to accept the way I am, better I die. I called my brother and I said that. Give me time to change a bit. I cannot change 100%. This has to do with our soul. Maybe outside I can change, but inside cannot. How to change inside? You want to be a hypocrite?

I have tried to commit suicide because my parents don't accept who I am. I also ran away from home, I went to KL when I was 18 years old. After two years, I went back. I faced a lot of rejection because I am a transgender woman; people don't want to take me for work. I worked at a store, I performed my tasks well, but the boss didn't like me. I didn't do anything. He said, today is your last day, and then you get out. And then I worked at the salon. They accepted me. I felt very comfortable working there. They treat me like a family. And then I quit because my grandfather passed away.¹²⁴

At least three respondents shared that they left home because they felt ashamed of themselves or to avoid bringing shame to their family members because of their gender identity and expression. The shame that they experienced could also be linked to their jobs as sex workers and their inability to get a job.

The experiences of the respondents demonstrate a lack of understanding of trans persons and gender among family members, and to some degree the respondents too. At least three respondents said that their family members perceived them as 'lembut' or soft, which suggests that their understanding of trans persons and gender identity is low.

Further, many forms of violence experienced by trans women are not considered as violence or harmful practices, as these practices are also viewed and justified through a religious and cultural lens. In particular, conversion therapy or 'returning to the right path', is a common practice by state and non-

state actors alike, despite the documented long-term harm sustained by trans women.

As a result, the respondents were not only susceptible to violence by their family members, but also self-harm and internalized transphobia. In addition, protection and support services for trans women experiencing domestic violence or discrimination from their family members are unavailable. Often, the only available recourse for those facing violence and discrimination are community support and individual-level initiatives to overcome the situation. These include moving out and living on their own, getting a job and hoping that their family members will eventually come around.

5. Gender-based violence

The respondents reported multiple forms of gender-based aggression and violence online and offline, including doxing, physical violence, sexual violence, and break-ins. In some cases, there is an escalation of violence from online to offline. However, it is important to view these online and offline spaces not as siloed and separate, but as a continuum that overlap with each other.

Almost all respondents, except for two, were on social media platforms. One respondent found it challenging to use smartphones. At least 11 respondents are online entrepreneurs or had managed online businesses at some point in their life.

The respondents noted that online spaces allow them to find supportive communities and affirming content. Two respondents shared that they receive compliments and positive responses by online users when they share photos of themselves on their social media platforms. The respondents also use social media to raise awareness regarding transgender-related issues within trans women communities, their circle of followers and the general public.

At the same time, the respondents in general agreed that the social media spaces are transphobic. The respondents shared that on several occasions, online users have celebrated crimes as a result of transphobia or tragic news in relation to trans people. Mina shared that a report regarding a trans woman's boyfriend who killed himself in the United States received transphobic comments by online users. The comments in general said that he deserved it, as he was wrong to be dating a trans woman to begin with.

The respondents also face multiple forms of online gender-based violence, including:

- Discriminatory or transphobic messages on their social media feed or via private or direct messages;
- Doxing;
- Mobbing;
- Threats of physical violence.

The transphobic environment online, negative perceptions of trans women, as well as the increased vulnerability to being doxed and viralled prevent trans women from expressing

themselves online. Some respondents shared that they prefer to post photos, and not share much about themselves to avoid backlash. Maria shared:

These days, these viral things are full on. That's why, we are LGBT, anything that we do, for example, if we want to post something in whatever application such as Facebook, WeChat or whatever, we have to think about all aspects: if I were to do this will I get viralled or not? ... What I do is before I post something, I will think of the future.

I have done live [feeds] and all that, wearing my sexy attire, but then it was only a while and I ended it because I didn't want it to go viral. If on social media, I am afraid, I am not brave. I am afraid of things being viralled, and now there are too many netizens who quickly copy and paste and lodge a report.¹²⁵

The respondents noted that they find it challenging to express themselves and their opinions on social media, especially on religion, politics and human rights. Denise shared that the online users often dismiss religious views posited by trans women by using culture and religion, specifically the notion of sin to condemn and reject the trans women. Consequently, the respondents find it difficult to advance human rights of trans people in Malaysia. Denise expounded:

Sometimes the netizens quarrel; they use the religion thing to condemn transgender. *Niat tidak menghalalkan cara.* (One's intentions do not justify the means.) If it's a sin it will be a sin, no matter what you say, however you try to explain to them, they will still have that view and the mindset that it's something sinful, it is a sin. No matter how you try to explain and how you try to convince them that it's not, for them it is.

Anything that has to do with LGBT we don't have space to express ourselves, in terms of wanting our rights in Malaysia like what they did in western countries, we can't do that here. We can't ask for anything. They think, the cisgender (persons) think, that we need to be thankful, grateful and lucky that we have what we have now. We don't have to ask for anything more.

Like when the Women's March happened, and then the next day there was a thunderstorm in Selangor or KL,

they said that was because of the LGBT demonstration. There is a very large gap in Malaysia when it comes to us asking for rights for equality. I think we cannot achieve that in a million years. For me there will be no equality for trans people in Malaysia.¹²⁶

Some respondents shared similar views with Denise regarding the lack of space to express their thoughts and ideas on religion and human rights. They added that online users and the state often assume that trans women have no knowledge on religion. Suraya added:

I ... like [that] when I speak I am confident, but I am afraid people will not be able to accept. I have written posts about transgender recently. But, people, not a lot that support on social media. I wrote and then I deleted it. I wrote on Facebook, 'it's unfair when people are punished when others don't even know their lived experiences and our life journey.' But people cannot accept.

Because I want to see whether the majority can accept or not. Malaysia, no. For example, I said that 'I have human rights.' They don't believe me. They think, 'Do LGBT people have human rights?' They don't believe...most of them cannot accept. If transgender women speak about religion they cannot accept. For example, even if you understand the religion, we already understand, even if it's correct, they will still look at us as dirty. Nothing. Zero.¹²⁷

At least three trans women working in civil society organisations said that they find it challenging to impart information on human rights and sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC) especially among conservative cisgender persons. Julia shared that she has received backlash from the conservative cisgender persons when she gave explanations on SOGIESC in a closed Facebook group with cisgender and transgender persons.¹²⁸

At least four respondents shared that they make their posts private to avoid backlash and negative comments from online users. At times, the backlash and negative comments online are directed at not only the author, but also their family members and loved ones. For trans women and groups of people who receive lower levels of social acceptance and have limited support systems, this can be very challenging, as they not only reinforce harmful stereotypes and notions, but can also negatively (or positively) shift the level of acceptance that

123 Interview with Hana, 9 September 2020

124 Interview with Laila, 23 August 2019

126 Interview with Denise, 23 August 2019

127 Interview with Suraya, 9 September 2020

128 Interview with Julia, 30 September 2020

the trans women receive.

Julia shared her experience of facing backlash from online users for sharing a post about her and religion. She shared that negative comments affect her deeply, especially when they are directed at her family members and those who support her. Julia shared:

Because the attacks were not directed at me but at my family [members] who accept me, that makes me [feel] down. Why do they want to attack my family when the one who made the statement about religion, about myself, was me? But they attacked my family, siblings, both parents where I feel it's not fair for them. They are my strong supporters. They help me a lot, accept me, they lift me up in many things.¹²⁹

Meanwhile, one respondent prefers to engage in private online spaces, where she is open about her life, politics and other issues. Her reasons for choosing to engage in private spaces have to do with a mix of external and internal factors, including her own level of comfort to engage in public discussions, the reception and response to her opinions, not wanting to out herself (because she was transitioning), among others. However, she sees changes in herself and is beginning to engage in public discussions. Beth explains:

A few years ago I was concerned about what would happen if I expressed my political opinions in public places. Maybe some people think of that as kind of extreme or unrealistic.

I may have some form of criticism, but now I feel okay just generally being open about who I am and what I think. I just apply myself by thinking that if people don't like it, I don't depend on their approval. In the past, a lot of the time, I did want to let people know, say something or even prior to that like, there are times when I wanted to get into a discussion about transgender people, but I didn't want to out myself, I didn't want people to think there's something going on with them.

When it comes to that, for a really long time, I did feel like the easiest and safest thing to do was to not even touch the topic of being trans anywhere it could be seen.¹³⁰

In addition, the respondents also shared that the arrests of online users for sharing posts or expressing their political

129 Interview with Julia, 30 September 2020

130 Interview with Beth, 24 July 2019

views on social media act as a barrier for them to express themselves. Other than the reported arrests in the media, a respondent shared her personal experience of witnessing her partner's sibling getting arrested for criticising the state-elected representative regarding the lack of Covid-19 relief, which has prevented her from sharing political views on social media spaces.¹³¹ Another respondent shared that she is cautious of the content that she posts on social media, as she is afraid of being sued by online users.¹³²

This is further aggravated by the harmful statements by state actors, in particular a statement by the Minister of Religious Affairs to arrest and educate trans women in July 2020.¹³³ Such statements, coupled with laws that criminalise trans women's gender identity and gender expression, as well as social stigma increase their vulnerability to state prosecution. As a result, they feel even more constrained to express themselves, let alone voice dissenting views. Eliza shares:

Expression to discuss politics, especially with the current government, I feel is restricted. Yes, definitely restricted. There was a case where a statement was made on Twitter only, but [the person was] arrested. Then the Minister of Religion gave a statement that religious officers can arrest trans women. This is very scary not only for myself, but also to all trans women. This is the main reason I am feeling uncomfortable now.¹³⁴

Discriminatory or transphobic messages on their social media feed

At least 14 respondents shared that they have received transphobic comments when they share a post, do live videos, post a tik tok video, rebut or clarify misconceptions. 'When will you change?', 'what is happening to the world?', and 'what have we come to?' are some of the common transphobic comments that the respondents have received.

Izzah shared her experience of engaging online users to clarify some misconceptions regarding transgender persons and religion online. At the end of the conversation, the online users dismissed her by saying 'she is also the same' and 'okay lah ustazah' to shut her down.

Five respondents shared that they have received comments to end their live sessions or TikTok videos, and were called derogatory names, taunted, preached at, even if the live sessions are about their business. One of them shared that they will usually end the live session when they see transphobic comments, while others ignore and delete the

131 Interview with Maria, 1 September 2020

132 Interview with Laila, 23 August 2019

133 Palansamy, Yiswaree. "Minister's Nod for Authorities to Go after Trans Persons Will Lead to Spike in Discrimination, Violence, Says Rights Group." *Malaysia | Malay Mail*, 12 July 2020, www.malaymail.com/news/malaysia/2020/07/12/ministers-nod-for-authorities-to-go-after-trans-persons-will-lead-to-spike/1883702.

134 Interview with Eliza, 30 September 2020

transphobic comments, or block those who make transphobic comments.

Alia, a trans woman in her mid 20s, observed that when online users bash trans women, it creates discord among citizens, and reinforces the perception that trans women are bad people. She added that online users could easily talk to trans women to understand who they are. Sonia shared that the bashing of trans women online causes her depression:

Actually I am in a state of depression at times, you know. It's like, why is this happening? Am I such a terrible being that people want to oppress me like this? To insult me like this? And when you can't insult me, you insult my mother and father. What is my parents fault in this? Why? If I have sinned, the sin is between God and me. InsyaAllah God is merciful. They will forgive all our sins. But, from what I have learned, if your sin is with people, as long as you don't apologize to the person that you have wronged, the sin will remain.¹³⁵

Nancy added that she has been trolled and mobbed by online users for responding to transphobic comments by popular online users with high numbers of followers. She also shared that she left Reddit for her own mental health and well-being after receiving transphobic and violent messages via private message regularly, for documenting and posting misogynistic, racists, homophobic, transphobic and other discriminatory comments by Redditors on r/ShitRedditSays. The private messages included, 'ohh, you're just mentally ill,' or 'I don't like you, transgender should die,' and 'you're so awful.' She recalled receiving unsolicited images of genitals by cisgender men through private messages after making on a comment on posts about 'dick pics'.

Doxing

At least six respondents shared that they had experienced doxing across various social media platforms multiple times. In all six cases, the respondents' photos or videos were taken and disseminated without their consent on dating sites, communication platforms, and social media platforms by strangers and sometimes by people who know them, including relatives and former schoolmates.

Some of the experiences include:

- The respondents' photos being taken by online users to catfish or scam other online users. As a result, online users have confronted the respondents via chat or direct messages for cheating or scamming them. Amelia shared she has been confronted by online users for cheating them several times.¹³⁶

135 Interview with Sonia, 9 September 2020

136 Interview with Amelia, 6 September 2020

- Photos shared by the respondents on their personal pages were taken and shared on other platforms with transphobic and sexual messages. Siti has been doxed more than four times. Her friends in the past have shared screenshots of her doxed photos with transphobic and sexual captions shared on transphobic social media pages. For example, *bapak tak sedar diri* ('*bapak*¹³⁷ are so full of themselves') and '*pondan*¹³⁸ single'. She noted that the photos invite high levels of vitriol and transphobic comments by mostly men of various age groups, including young people.¹³⁹
- Natasha's photos were doxed and shared with her father by her relatives, who are aware of her strained relationship with her father because of her gender identity. When these incidents occur, her father takes it out on her mother, and her mother then takes it out on her. As a result, Natasha has decided to move out and live on her own to avoid tension between her parents.¹⁴⁰
- Maria's photos were doxed and shared on communication platforms with the caption, '*is this a woman or a man? Guess?*' by her neighbours. She confronted the perpetrator and made them delete the photo.¹⁴¹
- Rania Medina, a human rights defender, photos in school before she transitioned, details of her parents, name of former school were released by an acquaintance amidst public controversy and confusion surrounding her representation as a community elected civil society representative in the Country Coordinating Mechanism, an oversight mechanism for the Global Fund, which is a fund to end AIDS, tuberculosis and malaria globally.¹⁴²

The respondents did not report the cases to the police or the Malaysian Communications And Multimedia Commission (MCMC), despite feeling humiliated and threatened as a result of the doxing incidents.

One respondent shared that she had preemptively lodged a police report when her instagram account was hacked, as she was afraid her photos would be misused. The police, however, were unable to trace who had hacked her account.

137 A catchall term for trans women and queer men. The term has a pejorative connotation.

138 A catchall term for trans women and queer men. The term has a pejorative connotation.

139 Interview with Siti, 1 September 2020

140 Interview with Natasha, 6 September 2020

141 Interview with Maria, 1 September 2020

142 Interview with Rania, October 2019

Threats of physical violence, assault and hate crimes

A number of cases of threats of physical violence, assault and hate crimes were documented in the past five years. At least four respondents reported threats of physical violence by online users, family members and strangers. Meanwhile, at least three cases of hate crimes in Pahang and Perak, and three cases of sexual assault in Pahang were reported. The perpetrators are typically men of various ethnicities, age groups and nationality. Some perpetrators are strangers, while others are customers, people living in the same residential area, or family members.

The cases illustrate a few key emerging themes:

- 1. Lack of reporting:** Many do not report cases of violence due to victim blaming, due to a lack of trust in the police that is informed by personal, vicarious or collective experiences with police, and a presumption of lack of evidence. These experiences make them feel unequal, inferior, marginalised and disrespected in society. At least three respondents shared that their previous negative experiences when seeking assistance from the police following accidents, violence, among others, had prevented them from lodging police reports when they faced violence;
- 2. Increased vulnerability:** The sexualised stereotype of trans women makes them vulnerable to sexual harassment with impunity;
- 3. Impunity of perpetrators and inadequate state protection:** The criminalisation of and social stigma against trans women create a high level of impunity and result in inadequate protection;
- 4. High costs:** These cases have severe, long term and costly impact, including stress, depression, and trauma that is often not adequately addressed. In addition, the respondents also bear financial costs when relocating to a new place as a means to increase personal security measures.

Two cases are related to social media, and one of the cases correlates with the state narrative that transgender and LGBTQ persons can and should return to the right path or to be rehabilitated, which has gained more traction over the last 10 years. A respondent shared that she had received threats of physical violence on social media. The online user threatened to physically assault her if she does not change.¹⁴³

Meanwhile, another respondent shared that she had experienced physical violence in a case of mistaken identity on social media. She was physically assaulted by 10 men in a public place, as they assumed she was the *mak andam* who cheated them. She did not lodge a police report, as the men apologised. She was afraid of returning home after the incident with bruises on her body, as she did not want to upset her

mother.¹⁴⁴

A respondent shared that two men attacked and assaulted her at a low budget hotel that she stayed in for a weekend in 2019. Many trans women stay at the hotel, as the owner is friendly. However, the security at the hotel is low, and it has no CCTV. The respondent saw the perpetrators surveilling the hotel in their motorcycles a few hours prior to the attack.

She felt suspicious and unsafe, so she changed her into men's clothes and went out to lock the main door. They approached her and asked if there were trans women staying at the hotel. They became curious of her and asked her about her gender identity. She denied that she is a trans woman, and in response they grabbed her breast. Despite screaming for help, the perpetrators managed to grab and hit her. She sustained bruises, but managed to escape her assailants.

She went to the nearest police station immediately and informed them regarding the incident. She requested that they accompany her to the hotel to collect her personal belongings. The police obliged and accompanied her to the hotel. She noticed that several of belongings were missing. As the hotel has no CCTV it was difficult to ascertain the suspects, although she was certain it was the perpetrators. She lodged a police report the following day after consulting a few of her activist friends. She said that the police officers called after a few days to get more details, but she has not heard from them since. The respondent also shared that she did not follow up, and presumes the lack of adequate evidence or CCTV footage could have led to an inconclusive investigation.¹⁴⁵

In 2018, one of the respondents was attacked at a bank by a group of unknown men while she was lining up to use the ATM, whom she believes held anti-trans views. They began by taunting and insulting her. The situation escalated into physical violence when they grabbed her by her neck and dragged her outside of the bank with the intention of physically assaulting her. She was saved by some bystanders at the bank, and the men did not manage to further assault her. She did not lodge a police report, despite the availability to CCTV footage and eyewitnesses, as she feels she was not physically assaulted. That said, she was traumatised by the event.¹⁴⁶

Sexual harassment and violence

Nine respondents shared multiple experiences of sexual harassment and violence, including in their home, workplace, public places, restaurants, public transportation and online spaces by cisgender men of diverse backgrounds. These experiences encapsulate the increased vulnerability to sexual violence experienced by trans women and the adverse impact of the sexualised perception of trans women. Only one respondent reported the cases of harassment and violence to the police or other government bodies.

Meanwhile, more than half of the respondents shared that they were sexually harassed through private messages online.

Fara said she experiences sexual harassment on a daily basis because she of her gender expression and identity. She observes that she receives higher level of sexual harassment in Kuala Lumpur as opposed to Kota Kinabalu, her hometown. She has experienced stalking by unknown men to seek sexual services. Fara explained:

Sexual harassment happens to me almost daily. I know I am a sexy woman and I know people would want to flirt with me and give me compliments. They want to bring me some place I don't know by saying sweet words to make me trust them. Like in Kuala Lumpur it happens everyday, even at the shopping mall.

People follow me back to my hotel and they ask me 'how much is your price' and I ask them why are you touching me and they say 'you're so pretty' and stuff like that. I always get sexually harassed. In KK (Kota Kinabalu) not so much because this is my place, but in KL (Kuala Lumpur) it's quite frequent.¹⁴⁷

Fara shared two incidents of sexual harassment in Kuala Lumpur. In the first incident, a man followed Fara from Petaling Street to a hotel, where she had a physical confrontation with the man in the hotel lift. He was seeking sexual services from her and became aggressive when she did not entertain his offer. Fara reported the incident to the police, although the outcome of the report is unknown. She recounted:

He followed me into the lift and then he said 'hi, I like you, how much is your service?' I said no I am not a service girl and he ignored me, and then he pushed me to the corner of the lift, then he said 'fuck you, why are you so rude?! I am just asking how much, I can pay you!' I told him I don't want to and I told him I will make a police report because he bruised my elbow. He said go ahead. And I told him that I am not afraid and I am a local. I can take a picture of you and send it to them, he apologized and left. So I went to the police station to lodge a report and they accepted the report.

In the second incident, two unknown men approached her while she was waiting for her friend in a restaurant in Kuala Lumpur. They complimented her and asked if he could join her. When she declined, one of them became aggressive, pushed her and said, 'what a rude pondan! Do you think you are so pretty?!' Luckily, there were two police officers in the vicinity who assisted her.

However, the police officers also made some sexist and victim-blaming remarks. They asked her why she is so sexy and told

her being pretty gets her into trouble. She has heard similar remarks when she made a police report over another sexual harassment incident, although she says they were helpful and reminded her to always be prepared as sexual harassment can happen at any time.

In both incidents, the situation escalated quickly. The men became aggressive when she rejected their advances. This suggests a sense of male entitlement and an absence of awareness or willful ignorance of the consequences of harassment against trans women.

Aya also shared a similar experience of being followed by a taxi driver after being catcalled, ostensibly to seek sexual services:

Because I do have to walk to work every day so there have been a few incidents [of catcalling]. The biggest one for me was there was this taxi driver who insisted on wanting to pick me up; he would follow me and I would just say no. Then he would u-turn to the opposite side of the road where I usually cross the road and ask me again.

He did this a few times, a few more u-turns to get me to talk and before I knew it, I was in the building. That was the more severe one, there was some catcalling here and there but nothing other than that. It only happened one time and he hasn't come back since. I would have reported him if he did.¹⁴⁸

Asha shared her experiences of sexual harassment on public transportation, in particular on buses and Grabcar service. The forms of harassment include unwanted sexual gestures, unwanted touching, inquiry of price for sexual services, among others. She explained that although the Grabcar drivers do not make physical contact, they often talk about sex and sexual topics, making her feel uncomfortable.

Fazura has had multiple experiences of sexual harassment and violence by cisgender men, who have tried to court her. On one occasion, she experienced sexual violence by a tour guide when she was on vacation with her family members in Malaysia. Upon discovering her gender identity, he proceeded to sexually assault her in his car. Fearing her personal safety, she complied. She did not report the case, as she did not want to be bogged down by time consuming and emotionally taxing legal actions. She did, however, get a medical test after the incident.

I don't know...somehow he knew about my gender identity, maybe I over spoke about something. All of a sudden he became silent and straight away, directly, asked me to satisfy his sexual desires. He basically asked me to BJ (fellatio) him.

143 Interview, 9 September 2020

144 Interview with Tina, 1 September 2020

145 Interview, 6 September 2020

146 Interview, 6 September 2020

147 Interview with Fara, July 2019

148 Interview with Aya, 24 May 2019

At that time I was in a place where I don't know where I am, he took me to a place, there weren't a lot of cars passing by and in order for me to get home safely, I did that. I might be in danger if I refused because I was in the middle of nowhere with him in the car and I am in a place where there are not many people there. He might take me somewhere to do bad things to me.¹⁴⁹

A respondent shared that a group of five or six men in their 20s knocked on her door and tried to break into her house to have sex with her. When she threatened to call the police, they left, but returned a few days later multiple times. They had unlocked the front gate and entered the house compound when she was not home, and they had tried to break in at least 4-5 times when she was home.

The respondent did not make a police report, as she does not trust that the police will act on her police report, given her previous experience with them when she made a police report against her uncle for hitting her with a helmet. She recalls the police asking her irrelevant questions and trivialising her case, denying her of equal protection. As a result of her previous experiences, she lived with fear and trauma, especially when night falls. She said the only solution for her was to move to another town altogether.¹⁵⁰

Mas, a hair saloon business owner, shared that she has experienced sexual assault by unknown men, sales men and customers multiple times in her shop in the last two years. She has had several men who have walked into her shop and molested her and tried to force themselves on her after getting a haircut. Mas reflected that the incidents make her feel disrespected and inferior.

In 2019, a salesman walked into her shop. He immediately locked the door, opened his pants and hugged her. She has not made a police report against any of the cases, as she feels the police will not believe her due to lack of evidence. For example, her shop has no CCTV. While she feels she can handle the situation at the moment, these incidents cause her anxiety everyday as she works alone. She is not opposed to making a police report if the situation escalates.

She also shared that she has experienced sexual assault, including being molested and hugged without consent by her customers when she delivers products to them. In one incident, a customer entered her car, and proceeded to molest and forced himself onto her. She pushed him away and hit him, as she felt that was the only solution at that time. These incidents caused her stress, depression and paranoia. She is more cautious of strangers, and as a precautionary measure, she now carries items with her for self defence.¹⁵¹

Denise noted that sexual violence against trans women is a pervasive and long-standing issue. She experienced sexual violence when she was a young trans woman while attending

a party in a village in Sarawak. She also observes a change in attitude towards sexual violence within the trans women communities, which previously normalised sexual violence and did not take it seriously. She said:

It would have turned into a gang rape. I remember this boy, who saved me from being a victim of gang rape. Last time, it's not something that we looked at seriously. If it happens now yes, it will be looked at seriously. But back then, its something very common—men trying force trans women into having sex with them. Very common.

They were very aggressive, they pulled my hair, my hand and everything, they tried to slap me. That was the only time. It happened in Kuching, in a small village. We were at a party. There were lots of men. This happened when I was younger.¹⁵²

Within this context of normalised attitudes around sexual harassment and assault, one of the respondents shared that she sometimes feels affirmed by the sexual harassment, which suggests a conflation of and general confusion on the difference between harassment and affection as well as affirmation of gender identity.

Sometimes I'm proud about that, even though I am a trans woman, they still fall in love with me. Because they love me for who I am. I'm proud to be a pretty trans woman.¹⁵³

Catcalls, name-calling and microaggression

At least 16 respondents shared that they have experienced multiple forms of microaggression and verbal violence, including catcalls and name-calling, at community events, in their residential areas and in public spaces by strangers across genders, ethnicities and age groups because of their gender identity and gender expression. A respondent noted that the perpetrators are sometimes children or young people. She said:

That one (name-calling) is common, like at *kenduri-kenduri kampung* (communal events in the villages). If it's older aunties, you know I will not hold back, but these are kids. When they ask, we have to play a role (in educating them), we cannot be forceful with children. They will respect us over time.¹⁵⁴

The respondents' experiences show that their experiences of verbal violence coincide with various forms of microaggression, harassment or intrusion of privacy. They noted that the verbal violence typically comes in the form of pejorative name-calling, for example, *bapok*, *pondan*, *au*¹⁵⁵, *ombote*¹⁵⁶, or disrespectful comments. Some of the more common comments include, '*Nabi tak mengaku umat*' (the Prophet Muhammad does not acknowledge them as his followers), '*dah lelaki nak jadi perempuan*' (a man who wants to become a woman), among others.

Bell, who is in her 30s, has multiple experiences of verbal violence by strangers in public places:

Sometimes when I am walking, at the supermarket, or night market, there are some people who look at me like, '*wah, look at that kind! What is that?*' I just keep walking, I ignore them. There are some who call out *bapok*, but not as much as catcalls. I ignore them. Also, I don't like going places like that. People do harass me.¹⁵⁷

Other than Bell, six other respondents noted that they have experienced harassment, intrusion of privacy, and microaggression by members of the public, including being stared at, being whispered about and laughed at, and being recorded, presumably for sharing on social media or online communication platforms because of their gender identity and gender expression. Siti shared a recent experience of strangers attempting to record her while she was at a restaurant:

I experienced that the other day when I was at the *mamak* (restaurant). I went to him and said, '*hey! Idiot!*' because I saw one of them raising their camera. So I went to them and said, '*what do you think I am? A monkey in front of you for you to laugh at?*' They immediately kept quiet. I added, '*If I see it again, you are done.*' At that time I was at the restaurant near here. Being taunted happens a lot.¹⁵⁸

As a result of these experiences, three respondents said that they do not prefer to be in crowded spaces, or in public places for too long and attend community events such as weddings, to avoid verbal violence and harassment. Fifi added that she conducts herself professionally in public places and tries not to draw attention to herself for similar reasons as the other respondents:

I interact with the public as an individual. When we are out with friends,

155 A pejorative expression for trans women.

156 A catch all pejorative term in Tamil language for effeminate men and trans women.

157 Interview with Bell, 1 September 2020

158 Interview with Eliza, 30 September 2020

sometimes our friends are loud. I don't like that and I am not comfortable in those situations. We have to be professional in public places, outside. You know, society looks down on us trans women, everything is negative, everything is terrible, so we have to deal with all those things, especially the young ones.¹⁵⁹

Eliza shared that she experienced verbal violence by teenagers in her residential area, referring to her as '*geng Sajat*' and calling for her arrest. Sajat is a celebrity, and her name has become a moniker to describe or refer to trans women. Eliza shared:

I was leaving my home when a group of teenagers on motorcycles rode by and said, '*Ah, this is 'geng Sajat'. Arrest! Arrest!*' they said that. And of course I knew why it was happening. I don't know *lah* but when they said that and there were four of them, I cannot confront them on my own. It's best for me to save myself. Because of the incident I was late for work. I had to go back home, and call a car service.¹⁶⁰

She noted that as she gets older she becomes less bothered by the name-calling and transphobic comments. Age and time are factors in relation to trans women's reactions and how they cope with the violence.

6. Access to justice

While the respondents shared multiple forms of violence that they had experienced online and offline, their access to justice remains low. This is compounded by several intersecting factors including the criminalization of non-cisnormative gender identities and gender expressions and sex work, prejudice and stereotypes against trans women. The respondents also shared that the quality of service that they have received at the police stations have been subpar, unprofessional and biased, which in turn affected the respondent's confidence in state institutions and the likelihood of seeking services from the police again.

In this context, many feel that they are alone in solving their own issues, and that they have limited options in terms of solutions. Some respondents only seek services from the police when the situation is really dire.

There were two types of recourse that were accessed by the respondents:

- Complaint mechanisms within a particular social media platform;

159 Interview with Fifi, 6 September 2020

160 Interview with Eliza, 30 September 2020

149 Interview with Fazura, 11 July 2019

150 Interview with Suraya, 1 September 2020

151 Interview with Mas, 6 September 2020

152 Interview with Denise, 23 August 2019

153 Interview with Fara, July 2019

154 Interview with Maria, 1 September 2020

- [Police reports.](#)

The respondents noted that the social media platforms' responses are often limited to acknowledgment of violation of their community guidelines or terms of services. Nancy remarked:

For me, it is important that actual concrete action is taken against those who harass and make threats. Because most of the time, it's just a temporary suspension and they come back, even when their accounts are banned, they just create a new account. I think there should be more [content] moderation by the social media giants.¹⁶¹

Beth also had similar experiences using the internal complaint mechanism of social media platforms:

I have used the internal reporting functions on Facebook and Twitter and nothing has ever come of it. I have reported more than I can count. I mean on Twitter, there is a lot of straight up hate speech on Twitter, and [I have] reported it. Sometimes you see things get done, but you'll get a notification in a couple weeks saying that 'your report and others have been looked at, and decided that this person should be punished for hate speech.'

Every single time that happens, I go in and look at their profile and it's still there and still posting. Nothing seems to happen on Facebook too. Everytime I report something I get a notification back saying 'it's fine; it meets community standards and you're wrong'. But there is no real transparency of what the processes are and how it is determined what is actually racist and transphobic. And that leads to confusion and frustration and I guess that that's normal.

[I feel] very resigned everytime the report comes back and says 'we look into your report and it doesn't violate anything'.¹⁶²

Denise on the other hand, had a satisfactory experience when reporting some videos on YouTube, although by the time the videos were removed, other versions had emerged on other platforms. Denise reported videos by online users of a trans woman who had a public episode, where she danced and

walked around Kuala Lumpur in the nude.¹⁶³ She explained:

I report to YouTube only one video. Do you remember the Filipino woman who went bizarre and naked in KL? There were a few people spreading the video. I reported them to YouTube. I reported many times on many videos. It was very inhumane. When you know a person is intoxicated, and they are not themselves, and you viral them, it's inhumane, it's immoral to do something like that.

You should question your sanity when you share something like that, whether it's a woman, man, a trans woman, trans man, our family members or friends. We don't want to see them being ridiculed like that. They did remove the video.

But after a few days, there were too many videos of that incident, but they blurred her parts. It wasn't only on YouTube, but on Facebook, and other social media platforms. There is nothing much that I can do, except that I have done my part in the beginning, the first two days. I was satisfied with their action. They can do something about the video, especially in Malaysia, when they release that kind of video. Maybe they can do some filtering.¹⁶⁴

Reporting cases and seeking protection

None of the respondents have lodged complaints to the Malaysian Communication and Multimedia Commission (MCMC). The most common method to deal with transphobic comments and online users is to block the user or report them. Only one respondent had lodged a police report after her social media account was hacked. Another respondent shared that the MCMC could take more preventative and time efficient measures to curb online violence against transgender persons, and make the reporting processes friendlier for transgender persons.¹⁶⁵

The respondents' other experiences in seeking recourse were related to the police for cases of violence or crimes against the respondents.

Only four respondents said that they had satisfactory experiences when seeking assistance from the police. While these experiences may still include some level of victim

blaming by the police, they are minimal. All four cases took place in the last five years.

In one case, the respondent lodged a police report following a physical assault by two unknown men in 2019. Although the police did not update the respondent regarding the outcomes of their investigation, the respondent felt respected and that the police were responsive when she sought their service to accompany her to collect her personal belongings at the hotel where the assault took place.

Another respondent had lodged a police report following recurring threats from men living in her apartment complex, where she has been living for over a decade. She recounted that in all the years that she has been living there, she had not experienced these incidents previously. In the last one year, however, some residents had thrown urine, gray water, among other things at her. Two residents in particular subjected her to name-calling, and later physically assaulted her at her apartment complex one night when the two residents were drunk.

Her neighbours had called the police, and they arrived immediately. The two residents were taken to the police station. Prior to the incident, the respondent had lodged a police report against the residents for repeated harassment and aggression. The police advised her to call if the situation recurs. Nonetheless, the spate of harassment traumatised her. She said that she feels afraid at night and prefers not to be outside after 10pm to avoid unwanted incidents.

In such cases, the police could take preventative de-escalation and educational measures to circumvent such violence from recurring or escalating. It is also unknown whether such cases are recorded as hate crimes or gender-based violence against trans women. Tracking and collation of data in relation to gender based violence is important to among others understand the root causes of violence, assess trends, develop evidence and rights based interventions with adequate allocation of resources and support.¹⁶⁶ In the past, although the police investigate cases of crimes against trans women, they have been quick to dismiss the elements of hate and gender-based violence in crimes against transgender women.

Meanwhile, ten respondents had multiple negative experiences when seeking services from the police. Their experiences include:

- [Complaints being dismissed or the respondents' cases were not treated with urgency and seriousness because of their gender identity and gender expression. This includes not accepting and/or delaying issuance of the police report. At least four respondents shared that their reports were not entertained with urgency. Meanwhile, four respondents, who had lodged police reports against physical assaults, intimate partner](#)

violence and hate crimes shared that they were updated of the outcomes of the investigation.

- [Being subjected to name calling and pejorative terms. In particular the use *pondan* is pervasive among police officers as well as other government agencies according the respondents](#)
- [Being ridiculed and other forms of microaggression through body language. Reena shared that the police initially did not take her case of theft seriously and laughed her off. The officers told her that '*nobody would want to kidnap or rape you*', although she was there to report a theft.¹⁶⁷ Another respondent who had to make a police report due to an accident shared that the police officers teased, mimicked her speech, and gossiped and laughed about her with their colleagues away from her, but still within her sight. She was afraid of speaking up out of fear.¹⁶⁸](#)
- [Being victim-blamed, including being told that they exposed themselves to danger by being in dangerous places, and wearing sexy attire. Case in point, Timah shared that she and her trans women friends were assaulted by a group of men with a hammer in her car while they were out looking for a hook up in 2008. She added that she was almost killed by the assailant, and sustained fractures to her bones. When she reported the case, the police said that she should not have gone to a dangerous place and blamed her for bringing the incident upon herself. Timah said:](#)

In 2008, at that time I was out looking for men. A man assaulted me using a hammer. My bone cracked as a result. I was in a kancil car with 6 men, and they assaulted us. I was with another trans woman. We were both assaulted. I was almost killed. Did I make a police report? Police just ... It's a *pondan's* case. Police didn't take the case seriously.

The police said the place is dangerous. 'Why did you go there? You know the kind of people who are there – drunkards, people who take drugs. You brought this upon yourself.' The case was thrown out. It was futile. At that time, my mother was battling cancer. If I was thinking about her, what will happen to her if I die? That's why I avoid wearing (women's clothes).¹⁶⁹

Four respondents, on the other hand, said that they were either

163 "Dancing Transgender in Bukit Bintang Remanded for 14 Days." *TheStarTV.Com*, 14 March 2019, www.thestartv.com/v/dancing-transgender-in-bukit-bintang-remanded-for-14-days.

164 Interview with Denise, 23 August 2019

165 Interview with Aishah, 10 June 2019

166 Muntarhorn, Viti. "Report of the Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity." *Human Rights Council Thirty-Fifth Session*, 2017, documents-dds-ny.un.org/doc/UNDOC/GEN/G17/095/53/PDF/G1709553.pdf?OpenElement.

167 Interview with Reena, 9 October 2019

168 Interview with Alia, 9 September 2020

169 Interview with Timah, 23 August 2019

161 Interview with Nancy, 29 June 2019

162 Interview with Beth, 24 July 2019

afraid or nonchalant to lodge police reports when crimes and violence were perpetrated against them.

The trans women sex workers respondents, in particular were hesitant and afraid of making police reports due to fear of self-incrimination, which relates to the multiple forms of criminalisation that they face. Four respondents, who are sex workers, said that they were afraid of lodging police reports despite the aggression and violence they faced from customers. A respondent said that she does not want to prolong the cases, and that she is afraid of the unintended consequences of lodging a police report.¹⁷⁰

Another respondent recollected an incident of theft that happened to her friend, a trans woman sex worker. A customer robbed her friend's house, and left her tied up in the house. When the respondent suggested that her friend lodge a police report, other trans women in the community, especially the seniors, advised against it fearing reprisals not only from the police, but also from the state Islamic Department.¹⁷¹

These feelings are not unfounded. In 2019, a customer physically assaulted a respondent's acquaintance at her home. After consulting with the respondent, the victim and a friend lodged a police report at the Dang Wangi police station. The police visited the scene of crime, and sensed that they engaged in sex work.¹⁷²

A police officer promised to help them. She asked for information about their work, where they get their customers, and where they bring their customers to perform the services in the guise of helping them. Trusting the police officer, especially because she is a woman, they divulged details about their work.

Two days later the police carried out a raid at her home and arrested her trans women housemates and their partners, while some managed to escape through the back door. Some of those arrested were also taking drugs at the time of the arrest, allegedly given by the police. The respondent shared that sex workers in Kuala Lumpur use the phrase '*polis belanja*' meaning paid for or provided by the police when the police supply sex workers with drugs for free or without payment.

The victim's housemates and their partners who were arrested were detained in lockup and prison for over two months. Some of them are HIV positive, and did not have access to their medication in detention. As a result, their regime changed, and they were told by the doctors to buy new drugs they cannot afford.

The respondent offered to assist them in writing a complaint. However, the trans women did not take up her offer. Following the arrest, the perpetrator, who went into hiding came back to harass the trans women sex workers together with his friends. The perpetrators expected to be serviced without payment and threatened to assault the trans women who lodged the police report. Fearing for their personal security, they moved to a new place.¹⁷³

170 Interview with Bell, 1 September 2020

171 Interview, 6 September 2020

172 Interview, 30 September 2020

173 *ibid.*

Another respondent explains the stigma and criminalisation against sex workers and trans women as well as the perception of trans women as sex workers prevents her from lodging police report or seeking their assistance in any kind of case, be it a robbery or simply to report loss of IC.

Like for example us, right when we provide (sexual) service right, and then if we get robbed, can we make a police report? Because I was robbed. But won't the police say ... will they accept us because we are selling ourselves? The other day I lost my IC, but I didn't make a police report because I was scared. The police might say, '*Ha, where did you go?*' I didn't...I didn't make a report. I just paid a hundred something (fine). Because I am *malas* (exasperated or tired).

I am the type-I don't like to meet the police. I don't like it. That is why I said I am scared of the police. because I am scared they will use it against us. '*Ha, where did you go? Did you prostitute yourself? Is that how your IC is missing?*' That's what makes me *malas* (exasperated or tired) as well. Then I don't have to put up with the question, I just pay to make the IC, about RM 100 in fine.¹⁷⁴

Meanwhile, Tina shared that she feels a sense of stress, anxiety and fear when they are in circumstances where they have to lodge police reports. Tina explains:

For example, I have made a police report and then the police entertained the (cisgender) woman but when it came to my turn, because she sees me a transgender (woman), she acted as if she didn't care. Because of that, when lodging a police report, I get emotionally stressed a bit.

Because they think we are songsang (wayward) and all that, they don't care. When we need their help, for example, when we get robbed and all that, physically assaulted, when we make a police report, the police are not serious about it. Instead hey lecture us and all that. I am stressed about that.¹⁷⁵

Only one respondent, who had accompanied her trans woman friend to lodge a police report against violence shared that she had lodged a complaint to the police's Integrity and Standard

174 Interview with Siti, 6 September 2020

175 Interview with Tina, 1 September 2020

Compliance Department (JIPS)¹⁷⁶ following mistreatment that they experienced when lodging a police report, strengthening her observation on the lack of familiarity of complaint mechanisms among trans women. Sabrina recalled:

I had a friend who made a police report, but then at the police station, the police harassed and discriminated against her. I was with her at that time. I asked, '*do you want to accept (the report) or not? Do you want us to take our own action or follow the law? We came nicely. Is this 'prompt, friendly and correct' written on your wall? Is this how you treat us? We are also human. Don't bring us issues of sex and gender here.*' They kept quiet.

They took the report. At the end, they apologised. I said this is a small matter, not all LGBT or transgender are bad people. We are bad because we are perceived as bad in your mind. Someone broke into her house.

We waited for the police but they didn't arrive. I called every two hours. Because you can't move the items because they need to take photos and take fingerprints. My friend and I had to sleep at the staircase because of the delay by the police.

I think most people don't know that you can make a report at the Integrity and Discipline Unit. I made a report, and the following day they came to take photos of the house. A few years later, when my aunt had a break-in, the police came not even an hour after she made the report. So I think there was discrimination.¹⁷⁷

Encounters with police during roadblocks and club raids

At least three respondents noted that they had negative experiences with the police at roadblocks. The respondents shared that the police subjected verbal violence, sexual harassment, unsolicited advice regarding their gender identity, prolonged stops at the roadblocks because of gender identity and their IC. Siti shared:

It's the same at roadblocks. They see trans women, '*Stop, stop.*' When we are complete—we have our license. They just want to insult trans women. '*Let me see your IC. What's your name? Is this correct?*' When we have all our

176 Rodzi, Farik Zolkepli And Nadirah. "Cracking the Whip on Crooked Cops." *The Star Online*, 21 Feb. 2015, www.thestar.com.my/News/Nation/2015/02/22/Cracking-the-whip-on-crooked-cops.

177 Interview with Sabrina, 23 August 2019

documents. What else is not right?¹⁷⁸

Another respondent shared that she has had multiple experiences of being stopped at the roadblocks. In some instances, she was given unsolicited advice about her gender identity, and in some cases the officers made sexual advances towards her. She explained:

Roadblocks, yes. Sometimes there are a lot of roadblocks at night. They didn't insult me. They just ask me, '*Where are you going?*' and then look at my IC for a long time. They hold on to it for a while, and then they ask me out.

They say, '*you don't want to hangout?*' We were like, '*No, no, we are going to our friends house,*' that's what we said. This has happened many times. Sometimes, they also insult us. Sometimes, not insults, but they say, '*Eh, what's wrong with you? Why do you become like this?*' things like that, and then they allow us to go.¹⁷⁹

Izzah, who works with the community-based organisation that provides safer sex kits and information and other HIV-related services, has been stopped multiple times at roadblocks for having condoms in her car. She usually uses the situations as teaching moments. She said:

I was stopped at a roadblock the other day. I had condoms at the back. At that time, I had not shown them my outreach worker card. They asked, '*what are these condoms for?*' I said, '*Why? Is this wrong under the law? If so, under which act?*' He then said, '*having condoms is a crime.*' I replied, '*Mr., sorry, I am not being rude, but here's the thing, I also work with the Ministry of Health and the Malaysian AIDS Council.*'

I showed him my outreach worker card. I said, '*These condoms are supplied by the Ministry of Health. You as a government officer, you want to arrest me for distributing condoms? If you want to arrest, why don't you arrest me at 7-Eleven? Where does it say that having condoms is a crime?*'

They kept quiet. I do get this a lot. Sometimes we have our license and all, but they stop us. And we have to explain things to them. As far as I can remember I have been stopped and questioned at

178 Interview with Siti, 6 September 2020

179 Interview with Alia, 9 September 2020

least 10 times since I have started working with the NGO. Especially when I travel to distribute condoms.¹⁸⁰

Other than roadblocks, the respondents also encounter police in other situations and circumstances, such as club raids. Two respondents shared that they were caught in club raids. In both incidents, the respondents were subjected to humiliating and degrading treatment as well as verbal abuse.

Sonia and her friends, who were rounded up in a club raid in 2019, shared that she and her friends were segregated from the rest of the detainees, insulted and called *pondan* and *bapok* by the state Islamic Department officers on duty. She shared:

They said, 'Ooo *bapok* have a sit over here. Cannot mix with the men and women. To say men, they are not men. To say women, they are not women.' Do they have to have to say things like that? I could not say anything at that moment.¹⁸¹

Similarly, Alia and her friends were out-ed, insulted, made to line up with cisgender men because of the gender marker in their ICs, among others, during a joint raid by the Islamic Department, police, and the Immigration Department in 2019. The experience left Alia and her friends humiliated in front of other detainees and officers on duty. Alia recounted:

At that time we thought it was just the police. If it's just the police, we can deal. But in the end when they came in, we saw the state Islamic Department. So at that time, we were like, 'oh no, what do we do?' After that we discussed, discussed, discussed, luckily the police handled the case.

So the Islamic Department just came to pick up those who were drunk only. At that time, I was scared. Ya, because when the Islamic Department is involved in transgender issues, it will be worse for us.

At that time, they did insult us—when it came to our turn, they turned on the lights, and we were asked to line up. Women on the right side, men on the left. We went to the women's side. And then they insulted us. They knew we were trans women, they said, 'You are a man, right? You should go over there.' He said, 'You know that you are a man, go over there.' We said we were wearing women's attire. They said, 'No, no no, you are still a man.'

So we had to go to the men's side. It

was humiliating at that time because it was bright and we were at the men's side. There were people who laughed at us, and of course, looked at us rudely. The officer yelled at us and humiliated us. He said to us face to face or said it slowly, it's okay. But he yelled and the whole room heard him. And on top of that he was wearing a *kopiah* (skullcap). It was a ladies night. We were let go because police handled the case, and they were only checking for urine and those who consumed alcohol.¹⁸²

Arrest and detention

Nine respondents shared they have been arrested by the police and the state Islamic Department because of their gender identity or for alleged sex work. Most of the experiences took place over the last 5 years. Meanwhile, one respondent shared her experiences of being arrested, detained and imprisoned between the 70s and 90s.

The findings show the treatment of transgender women by the police and the Islamic Department has not change since the 70s. The respondent reported similar types of abuse, cruel, humiliating and degrading treatment during the arrests and detention.

Sally shared that she has been arrested multiple times when she was a trans woman in the 70s working as a sex worker. She recalled being arrested multiple times under Section 21 of the Minor Offences Act, and being fined RM25 for public indecency. She was imprisoned twice and served a 3-month jail sentence each time. She recalled her friends having no access to medicine when they were imprisoned in the 90s.

She said many of her friends died soon after being released from prison after they had been arrested by the state Islamic Department and police. They were 50 years old at that time. She also faced multiple forms of discrimination and abuse by the police during arrest and detention. One time, she was stripped naked by the police officer, and asked to show the officer her genitals. The officer, while holding a cane, scolded her for wearing a skirt. She recalled feeling humiliated and degraded in detention.¹⁸³

Fast-forward to 2020, Kamala shared a recent experience of verbal, sexual and other forms of abuse during an arrest by the police for alleged sex work. She said,

We are only doing sex work, we don't disturb people. We are not taking anything from people. Why do they treat us like this? When police arrest us, they don't respect us. 'Pondan, eh pondan, this is the pondan's IC, pondan come here!' The police have no respect for us. I hear

it so much.

That day the police arrested three of us trans women, but they let go of us. One of them asked me, 'Down there, have you cut, do you still have it, do you masturbate?' There were so many people there (who saw this). Then he said, 'Do you have a penis? Do you? Feels like you have a hole, right?'¹⁸⁴

Fifi shared that she has been arrested multiple times by the state Islamic Department for wearing women's attire in a public place. She was subjected to verbal abuse when she was arrested by the state Islamic Department. She said:

I was arrested by the state Islamic Department. Insults are common. They said 'The Prophet doesn't acknowledge you as a follower,' like that. The last time I was arrested was in 2014 or 2015, for wearing women's attire in a public place. In total maybe four to five times. By police one or two times only. That was long ago.¹⁸⁵

A respondent who previously worked as a performer at a nightclub in Kuala Lumpur was arrested at her workplace in a joint raid by the Immigration Department, the Federal Territories City Council, the police and the Federal Territories Islamic Department (JAWI) in 2015. She and her other trans women colleagues were advised and instructed to report back to the Islamic Department every three months to extend bail. The respondent went back and forth every three months for a period of three years to extend bail. The case was eventually dropped.

The club owners were allegedly warned and restricted by the authorities from allowing performances at the club. As a result, the respondent and fellow trans women performers lost their source of income. Although it has been years since the ordeal, the respondent is still experiencing trauma as a result of the arrest and the events that followed suit. She feels a sense of anxiety when encountering the authorities. She deleted all of her photos and videos as a performer on social media. During the arrest, she shared that the officers from the Islamic Department were disrespectful, unprofessional, asked intrusive questions and subjected them to verbal abuse. She shared:

What I feel was unnecessary were the JAWI enforcement officers who arrested us. They provoked us. They called us *pondan*. They asked us why we needed to have breast surgery. Questions that were not relevant, that have nothing to do with their work. If they want to arrest us for drinking alcohol, yes of course we can accept that. This is because of [us being]

pondan. What's that? And their language is very crass.¹⁸⁶

Alia noted that she feels anxious when she is out with her friends, especially when she sees white vans drive by. Her anxiety underscores the chilling effects that the laws criminalize non-cisnormative gender identity and gender expression have not only on freedom of expression but also freedom of movement. Alia explained:

Sometimes, when I am hanging out at the square, sometimes I think about it, sometimes when a white van drives by, I will be 'Eh, the Islamic Department!'. So there's anxiety there. Because there were people who said that they have the right to arrest us. But then when I discussed it with my friends, they said they have no right to arrest us for no reason. Because we are not doing sex work there. We are just hanging out. But still worried.¹⁸⁷

Statement by the Minister of Religious Affairs

In 2020, the Minister of Religious Affairs made a statement announcing that the Federal Territory Islamic Department has full license to arrest and educate trans people.¹⁸⁸ The statement follows a backlash against a Muslim intersex woman celebrity who is popularly perceived as a trans woman, for posting photos and videos of herself in a bikini on her social media platforms.

The Minister's statements further shows the wide ranging impact the laws criminalising trans women, and state policies that promote rehabilitation of transgender persons and LGBT persons have in creating an environment that allows arbitrariness and impunity to persist and fester.

At least seven respondents discussed the statement by the Minister of Religious Affairs. Although the Minister's statement was directed to the Islamic Department in the Federal Territories, the shockwaves transcended geographical and religious boundaries.

One respondent shared that the article and posts related to the statement were shared numerous times and repeatedly among trans women groups, increasing her fear and anxiety. She highlighted the concerns and speculations of what could happen, which included being fined, arrested and having their heads shaved, pushed her anxiety over the edge.¹⁸⁹

Mas shared that she was depressed and felt stressed after reading the statement. Mas' parents advised her to be careful and not to be too sexy, although her family members do not accept her.

186 Interview, September 2020

187 Interview with Alia, 9 September 2020

188 "Minister gives 'full licence' for authorities to act against transgenders," *Malaysiakini*, 20 July 2020, <https://www.malaysiakini.com/news/533801>.

189 Interview with Jamilah, 6 September 2020

180 Interview with Izzah, 6 September 2020

181 Interview with Sonia, 9 September 2020

182 Interview with Alia, 9 September 2020

183 Interview with Sally, 6 September 2020

184 Interview with Kamala, 9 September 2020

185 Interview with Fifi, 6 September 2020

The respondents shared that they felt a mix of feelings, among others, anxiety, worry, and that they were being unfairly treated. Five out of seven respondents shared that they were initially worried by the Minister's statement. Meanwhile, three respondents said that the statement was arbitrary and unfair. Fifi said:

The feeling of worry was there, but why do they want to arrest people like that? This is who we are. We are not doing anything wrong; we are not killing, raping anyone, no. We are just wearing (women's) clothes. Our dressing, as what people would say, is within [the] boundaries [of modesty], but I don't like what was said. I was worried, but yes we are not murderers, or engaging in criminal activities. No need to arrest us.¹⁹⁰

At least four respondents shared that they were worried of being in public places and of arbitrary arrest. One respondent was worried of her workplace enforcing stricter dress code policies following the statement. She became even more worried as she did not own any male attire other than T-shirts.¹⁹¹

Another respondent from Melaka shared that she was afraid of being in public spaces and feared arbitrary arrest by not just the Islamic Department, but also the police. She shared her concerns of wider prosecution with impunity as a result of the statement by the Minister. She described her feelings:

Not to say afraid, but even to go to the shop, I felt *dup-dap-dup-dap* (heart palpitations). Although I am wearing a t-shirt and not wearing a bra, when I see the police I get so anxious. Sometimes we are arrested because the issue is hot. So we are scared. Sometimes people don't understand. We are not afraid of our money flying away. We are afraid because our name and reputation is at stake. Yes, having our hair cut and all that. We are treated as second class citizens, not Malaysians. By right Islam protects us, right?¹⁹²

A respondent also raised the wider impact of the statement on her privacy, safety and the impunity it creates. She was concerned that the statement could trigger violence, discrimination against and arrest of trans women under various state Syariah laws, in particular the section on 'male person posing as a woman'. Kamala adds:

When the statement was first released I was worried. Scared. Unimaginable fear,

190 Interview with Fifi, 6 September 2020

191 Interview with Jamilah, 6 September 2020

192 Interview, 6 September 2020

you know. Actually the state enactment in Melaka says male persons posing as a woman in public space, full stop. So those who are working, running errands during the day in women's clothes are wrong. There was one time, there was a signboard here on "male persons wearing women's attire", and they even put it up.

It was only that the Islamic department did not take action. The law is already broad. When the statement was released I thought of so many things. The statement doesn't only affect my life. I live in a village. What about perception of the people in the village? Not everyone likes me here. Who likes transgender women? What more with me living with my husband. But, I am on standby, just in case anything happens. The Minister should not have released the statement. Although he is speaking in terms of Islam but the impact of his speech is on all trans women communities including Chinese, Indian, Malay and all ethnicities.¹⁹³

Kamala's concerns speak to the wide reaching impact of the statement beyond Muslim trans women. Other than concerns over arbitrary arrest, Kamala also spoke to the lack of freedoms that trans persons are able to enjoy in Malaysia despite being voting citizens:

Yes, afraid too. They (the government) said they want to arrest everyone—Indian, Malay—if they are transgender they will arrest. That's what they said, right, so I also feel scared. If we ask them why you want to arrest us? [They say] because transgender (people) are useless.

But when election time comes, you want our vote. You want us to vote you in, but we are not free. We also want to be free, right? Why can't you let us be free? If the government wants our vote, you must accept, if we need help, if we need support, the government must accept that. But when it comes to transgender there is no acceptance by the government. How can?¹⁹⁴

At least two respondents noted that the statement is inconsistent with the spirit of Islam, which protects marginalised groups. One respondent believes Islam does not act punitively, arbitrarily and based on stereotypes. She cited the story of a sex worker who, contrary to the perception of sex

193 Interview with Samantha, 6 September 2020

194 Interview with Kamala, 9 September 2020

workers as sinners, was allowed into heaven because of her compassion for animals and offering water to dogs.

Asha expressed her concerns over freedom of expression as a result of the strict control and restrictions by the government using religion. She said:

I don't like what the Minister of Religion said but when I look at my community who are Muslims, I am worried for them, and the religion is too controlling. This cannot, that cannot. I pity them. We are all humans. They wear women's clothes; all this is between us and God.

The Minister and all interfere in our personal issues. I don't know why this is happening. I saw the community crying when they said they would arrest us. I cannot put up with this. Why is this happening to them, why are they not accepted? It's not a transgender persons fault that we are born this way, it's not our fault.¹⁹⁵

Linked to the prosecution of the Muslim trans women, a respondent shared her hesitation of converting to Islam because it will subject her to scrutiny, persecution and prosecution. Jo explains:

My heart is close to Islam, because I was taught that at a certain level, the Islamic views in our community itself, by which I mean by our *mak ayam* (senior trans women)...I had very good mentors. I had great people who brought me up to where I am now. For me I know a constraint is that by converting [to Islam], they will have their eyes on me. I am not giving them a chance to do that. I don't think it happens in other places.¹⁹⁶

7. Access to gendered spaces

A study by Suhakam shows that at least 65 out of 100 respondents shared that they experienced challenges in accessing public facilities, including toilets, changing rooms, prayer rooms, gymnasiums, among others.¹⁹⁷ The study also shows that 20 respondents faced barriers and a lack of access to gender specific spaces, including toilets and locker

195 Interview with Asha, 30 September 2020

196 Interview with Jo, 22 September 2019

197 *Study on Discrimination against Transgender Persons Based in Kuala Lumpur and Selangor (Right to Education, Employment, Healthcare, Housing and Dignity)*. Suhakam, 2019, www.ohchr.org/Documents/Issues/SexualOrientation/SocioCultural/NHRI/Malaysia%20Human%20Rights%20Commission.pdf. p.107

rooms, by their colleagues at the workplace. Meanwhile, 19 respondents faced similar restrictions by their employers.¹⁹⁸

In an online survey by Justice for Sisters in 2017 on access to toilets by transgender persons, the survey found that 15 out of 97 of the transgender respondents were forced to use toilets based on their sex assigned at birth. Meanwhile, 40 respondents have faced discrimination when using public toilets. The survey also illustrates the impact of a lack of access to toilets, including emotional stress and self esteem issues.

The UN Special Rapporteur on Water and Sanitation Mr. Pedro Arrojo-Agudo notes that water and sanitation facilities must be safe, available, accessible, affordable, socially and culturally acceptable, provide privacy and ensure dignity for all individuals, including those who are transgender and gender non-conforming. He identifies how laws and policy can contribute to, rather than redress the inequalities between genders and in accessing water and sanitation.¹⁹⁹ He further recommended that the Malaysian government monitor how gender inequalities, including among lesbian, gay, bisexual, transgender, intersex and gender non-conforming persons, manifest themselves in extra-household settings.²⁰⁰

The respondents had varying degrees of access to gendered spaces, in particular toilets, be it in public or private spaces. At least 15 respondents shared that they face challenges in accessing toilets based on their gender identity, and have experienced multiple forms of aggression when using the women's toilet or avoid using public toilets altogether in some places. For example, one respondent said that she does not use public toilets in the town that she lives in. She will only use the toilet when she returns home. If she is in other states in Malaysia, however, she will use the women's toilet.

At least six respondents said that they use public toilets for persons with disability. Fifi, who is in her 30s, said:

I use the toilet for people with disabilities. If there are no toilets for persons with disability, I will enter the women's toilet. But if there are three toilets, I will use the one for persons with disabilities.²⁰¹

Two respondents shared that they experienced being stared and confronted by other users of the public facilities. Siti shared her experience being confronted by a cisgender woman in the public toilet in 2019:

I went to a recreation park near here with my friend last year, I think. I entered the toilet, and a cisgender woman said,

198 *ibid.* pg 55 & 57

199 "Gender Identity and the Human Rights to Water and Sanitation. A Compilation by the Special Rapporteur on the Rights to Water and Sanitation, Leo Heller." *OHCHR*, www.ohchr.org/Documents/Issues/Water/10anniversary/GenderIdentity.pdf.

200 "ACNUDH | Statement at the Conclusion of the Official Visit to Malaysia by the Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation, Mr. Léo Heller." *OHCHR*, 2018, www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=23928.

201 Interview with Fifi, 6 September 2020

'This is a woman's toilet. Use the toilet for persons with disability.' She said that to me. My friend said to me, 'Please, we should not get into a fight with people. Let's just leave.' I disagreed with her, as there is no reason for us to leave.

I said to the cisgender woman, 'Why are you making noise and all that. I am wearing women's attire. I am not naked or flashing you. No.' She kept quiet and left. My friend advised me to not pick fights again. But I said to her, 'I am not picking a fight. We don't disturb them. We enter the toilet, and then leave, done. That's all.'²⁰²

Fearing being confronted or out-ed by other users of the facilities, the respondents tend to be cautious. Three respondents said they quietly and quickly go in and out of the toilet, and hope not to be noticed by others. Mel said:

It's about how we present ourselves. Not to make too much noise or create chaos in the toilet whether we are in the toilet or public spaces, we must be extra cautious because the society does not accept us in Malaysia. I don't want there to be an issue. So it's best for me to be cautious. Because I know I can lose my temper and in order to avoid conflicts, I take measures to control and prevent such situations from happening.²⁰³

The respondents also exercise caution when accessing public gendered spaces especially when there is heightened visibility of trans issues in the public sphere. A respondent shared that she experienced increased anxiety when using the women's toilet during the period of backlash following Mujahid Rawa, the then-Minister at the Prime Minister's Department's press conference after a meeting with Nisha Ayub, a human rights defender. Samantha recalled:

It happened once after the toilet issue related to Nisha Ayub. I was hesitant to go into the women's toilet. I used the toilet for people with disabilities instead. Nobody stopped me from entering the toilet but I was afraid. Trauma. I didn't want it to be an issue. Before it becomes an issue, oh my, better use the toilets for the persons with disability, that's the safest. At that time, I was at a toll station on the way to KL, and I went to the toilet for persons with disabilities. That was the only time. After that, no more. Things subsided.²⁰⁴

Asha, on the other hand, shared an experience of being restricted from using the women's toilet by a doctor during a meeting at a government department in 2017 or 2018. When she asked to be shown to the toilet, the doctor pointed her to the men's toilet, and said, 'Oh, here you cannot do that. You cannot enter (the women's toilet)' in front of others in the room. Her cisgender woman colleagues protested, however, the doctor insisted that she follows the rules and used the male toilet. The doctor followed Asha out of the meeting room and waited outside the room to ensure she used the men's toilet.

Although Asha was angry and uncomfortable by the situation, she relented. She told her friend, 'It's okay, let's find a toilet somewhere outside. Later they will make an issue or something.' She was afraid of the doctor lodging a police report against her, and was certain that the police will take his side, not hers. Asha was also disappointed in the doctor who had just offered support for transgender women communities during the meeting. Dissatisfied, her friend asked the doctor, 'If she enters the female toilet, what will you do?' to which he did not respond.

Asha's experience shows being stealth, in some instances, is not an option. As a result, in a non-affirming environment, trans women are subjected to humiliating and degrading treatments on the basis of their gender identity and gender expression. The experience also reveals several intersecting discriminations faced by transgender persons, in particular by healthcare providers, in government agencies, and by people who have closer interaction with transgender persons and marginalised groups.

The Suhakam study also notes that 57 out of 100 transgender and intersex respondents experienced difficulties when dealing with government departments and actors because of their gender. Their experiences include, among others, unsolicited opinions about their gender, being told to change their gender expression in order to be allowed to take photos for legal, travel and other documents, being taunted, stared at and other forms of microaggression, being outed and humiliated in front of others, and being told God only created females and males.²⁰⁵

Access to toilets is a long-standing issue for trans girls and women, and has significant impact on many areas, including education and employment. Michelle, a 44-year-old trans woman, who was in secondary school in the late 80s and early 90s, shared that she was bullied in her secondary school toilets, and would wait until after recess to use the toilets when the students were in class.²⁰⁶ Julia, on the other hand, shared her experience of being disallowed to use the women's toilet at her workplace in the early 90s following a complaint. As the workplace was affirming of her identity, they defended her and she was allowed to use the women's toilet again.²⁰⁷ Their experiences illustrate the importance of affirming environments in ensuring trans girls and women are able to study, work, play and live with dignity.

205 Study on Discrimination against Transgender Persons Based in Kuala Lumpur and Selangor (Right to Education, Employment, Healthcare, Housing and Dignity). Suhakam, 2019, www.ohchr.org/Documents/Issues/SexualOrientation/SocioCultural/NHRI/Malaysia%20Human%20Rights%20Commission.pdf, p 102 and 103.

206 Interview with Michelle, 2020

207 Interview with Julia, 30 September 2020

Religious spaces

Other than toilets, the respondents also faced different levels of access to social and religious spaces. Three Muslim respondents said that they find it difficult to express themselves at mosques and prefer not to go the mosque to avoid problems. Laila shared:

It's challenging to express myself among religious people. I find it challenging to express myself in religious spaces. I prefer to pray at home. I don't go to the surau or mosque. I feel comfortable alone.²⁰⁸

One respondent, on the other hand, shared that she wears a headscarf when she goes to mosque when she needs to make a donation or attend communal events. Religion is a recurring theme throughout the interviews with many Muslim respondents. Religion was not as dominant in the lives of respondents of other faiths, although, some respondents identify with and practice a religion.

Rose, a Hindu trans woman, shared she frequently goes to temples. On several occasions, couples and others have given her alms and sought blessing from her, inside and outside temples, as they believe blessing from a transgender person is powerful.

They know that I am transgender woman and sometimes they want to get blessing from me. Sometimes they want to touch my feet and be blessed. There was a woman who wanted to give me a saree and get a blessing from me and I said please don't do this. Indian people think that blessing from a transgender person is very powerful.

To me no. I see couples that are engaged who seek my blessings. Sometimes I just bless them, but I don't encourage it. This is pretty common and happens outside of the temple too. People seek blessing from people like us to make their lives better. That is their belief. This is practiced in India and Malaysia.²⁰⁹

The notion of blessing and curses can be found in the Mahabharata and other religio-historical and cultural references. In one story, Lord Vishnu, as they gave up their female avatar Mohini, said, "There will be more like me, neither man nor woman, and whatever words come from the mouths of these people, whether good (blessing) or bad (curse) will come true."²¹⁰ In another story, Brihannala, who is the trans woman avatar of Arjuna, worked in the lady's chamber as a teacher of dance, song, music and hairdressing for a year. She also

208 Interview with Laila, 23 August 2019

209 Interview with Rose, 10 October 2020

210 Anuja, A. (Ed.). (2019). Women's and Gender Studies in India: Crossings (1st ed.). Routledge. <https://doi.org/10.4324/9780429025167>

performed all the common duties performed by the *shandha*, a catch all term used for trans women, intersex and gender diverse persons, including dancing and offering blessings at wedding and birth ceremonies.²¹¹ Further documentation shows the *hijra* communities were employed as royal guards during the Mughal Empire, and performed *badhai* or blessings at weddings and birth ceremonies.²¹²

Many references of inclusion and diversity can be found in Hindu and Indian practices and cultures. In December every year, the Indian transgender women communities in Malaysia celebrate a five-day festival to seek blessings from Bahuchara Mataji, a deity for the transgender women communities in Klang. The festival has received positive coverage in English language media.²¹³

The experiences documented through this study demonstrate the importance of communal religious spaces, and of being seen to be part of a religious community. Visibility is an important aspect of being accepted and seen as part of a religious community, which is, by virtue of not being accepted, denied to trans women.

8. Other issues

Educational institutions

At least nine respondents between the ages of 18 and 45 shared their experiences in educational institutions, mostly in secondary schools and higher learning institutions. The respondents experienced restrictions of opportunities to participate in extracurricular activities, bullying, multiple forms of violence, microaggression, segregated from other students, among others by their peers and teachers. One respondent shared that she dropped out as a result of bullying. Meanwhile, another respondent shared that she was depressed due to her experiences in school.

Tina, an 18-year old trans woman, shared that some teachers were not able to accept her, and that, in turn, restricted her from participating in dance performances. She shared:

When I was in school, half of the teachers were not able to accept, half could accept. One of those who couldn't accept were the ustaz, ustazah and others. When it comes to performances, events, these teachers will be the first to speak out. Like, 'No need lah, to take this student; this student is effeminate, it's shameful.' Like that.²¹⁴

211 Jayanthi, E. (2019). Transgender Welfare And Society. MJP Publishers.

212 Giri D. (2019). Transgender in Indian Context: Rights and Activism. AABS Publishing House

213 Muthiah, Wani. "Transsexuals Gather for Annual Religious Festival." *The Star Online*, 31 July 2008, www.thestar.com.my/news/community/2008/08/01/transsexuals-gather-for-annual-religious-festival.

214 Interview with Tina, 1 September 2020

At least four respondents between 27 and 45 years old said that they were bullied by their classmates, which included being subjected to name calling, teased for the way the respondents walked, had trash, urine and other things thrown at them, among other things. A respondent shared that students who bullied her also made sexual advances towards her.

Mas shared that she had nowhere to seek support or complaint against the bullying that she experienced in school as a young person. She shared it was a challenging time, and that she faced depression and stress as a result of the bullying. She shared:

When I was in school then it was very difficult. Very difficult, when I was in school. Always bullied, teased, but I was not assaulted, always bullied. Bullied in terms of psychology to the point that it made me stressed. Depression is normal, you will surely get depressed. Sometimes, we are unaware of it; we don't see friends. I had nowhere I could complain or anyone to talk to about these problems.²¹⁵

The Suhakam study reports similar trends of discrimination experienced by transgender persons in educational institutions. The report noted that the respondents experienced high levels of incidences of bullying and sexual violence in school, and the educational system lacks redress mechanism, which transgender children trust to discuss unique challenges faced by them.²¹⁶

Legal gender recognition

At least four respondents talked about legal gender recognition. In Malaysia, post-operative trans people were previously allowed to change their name, gender marker and other gendered details in their legal documents, namely, the national identification card. However, this has become increasingly challenging for post-operative trans people.

In July 2016, the trans man filed an application to change his name, gender marker and last digit of the serial number in his identification card (IC) was granted by the Kuala Lumpur High Court presided by Justice S. Nantha Balan. Justice Nantha Balan in his decision stated that the applicant 'has a precious constitutional right to life under Article 5 (1) of the Federal Constitution of Malaysia and the concept of "life" under Article 5 (1) must necessarily encompass the plaintiff's right to live with dignity as a male and be legally accorded judicial recognition as a male.'²¹⁷ However, in January 2017, in an appeal by the

215 Interview with Mas, 9 September 2020

216 *Study on Discrimination against Transgender Persons Based in Kuala Lumpur and Selangor (Right to Education, Employment, Healthcare, Housing and Dignity)*. Suhakam, 2019, www.ohchr.org/Documents/Issues/SexualOrientation/SocioCultural/NHRI/Malaysia%20Human%20Rights%20Commission.pdf, p. 48

217 Koshy, Shaila. "She Is a He – Even on Paper." *The Star Online*, 20 Aug. 2016, www.thestar.com.my/news/nation/2016/08/21/she-is-a-he-even-on-paper-posters-for-transgender-rights-often-read-some-men-are-born-in-their-bodi.

National Registration Department (NRD), the Court of Appeal overturned a High Court decision that allowed a trans man to change his details in his legal documents.

The decision to transition or not, and the degree of transition are not the determining factors of a person's gender identity or trans-ness, as a person's body and genitals do not determine their gender identity. As such, medical intervention is no longer a prerequisite for gender recognition in many gender recognition laws and policies in many countries, including Malta, Argentina,²¹⁸ Pakistan,²¹⁹ Malta's Gender Identity, Gender Expression and Sex Characteristics Act 2015 specifies that persons are not required to provide proof of a surgical procedure for total or partial genital reassignment, hormonal therapies or any other psychiatric, psychological or medical treatment to make use of the right to gender identity.²²⁰

Shamini, a post-operative trans woman shared that she is unable to change the details in her identification card, although previously post-operative transgender women were allowed to change the details in their identification card in Malaysia. She explained:

The gender on my IC has not been changed because I am Malaysian. Even If I want to change my name to a feminine name, I still have to keep a male name in front of my name. ²²¹

Another respondent shared that trans women have to consider multiple factors, namely state recognition, religion, family and societal acceptance before making the decision to medically transition. Her reflections suggest that the decision over one's body and to transition or not does not hinge on the individual's personal autonomy, need and desire. Instead, one's decision over a trans person's body is a matter of public and state affairs. According to Fifi:

If you undergo surgery and all that, you have to think about whether now can you get your IC (changed) or not, after the surgery. And then you have to think about religion. If in religion, you have to think about, in what condition do you want to die? You have to think about it in terms of rights, religious boundaries, and then family and societal acceptance.²²²

Aya explains that the non-recognition of her gender identity causes her gender dysphoria, a sense of anxiety and stress related to having to disclose one's gender identity, everytime she presents her official documents. In Malaysia, official

218 "Argentina Gender Identity Law." *TGEU*, tgeu.org/argentina-gender-identity-law.

219 *Pakistan: Transgender Persons (Protection of Rights) Act, 2018 - A Briefing Paper*. The International Commission of Jurists (ICJ), 2020, www.icj.org/wp-content/uploads/2020/03/Pakistan-Transgender-Advocacy-Analysis-brief-2020-ENG.pdf, p. 13

220 "Gender Identity, Gender Expression and Sex Characteristics Act, 2015." *TGEU*, tgeu.org/wp-content/uploads/2015/04/Malta_GIGESC_trans_law_2015.pdf.

221 Interview with Shamini, 9 September 2020

222 Interview with Fifi, 6 September 2020

documents are used for almost everything from being able to enter a building to applying for a bank loan. She explains:

I think the biggest challenge in terms of society is because of the official documents, they obviously do not recognise transgender people so whenever I present an official document is when I feel the most dysphoric. And I would always fear what other people would say to me or what they are thinking or they ask a lot of questions, it's always a very traumatic event.

The only thing I would like to add is that to have legal gender recognition... that would help a lot as well, for us we have to change our legal documents. If not, otherwise I think no matter how well we pass or whenever we go through any official positions where we have to show our official documents, we would feel dysphoria and I think none of us can escape. That would be the one thing that could help us being transgender.²²³

Kamala's experience at the hospital illustrates the wide-ranging impact that the official documents have on a trans woman's ability to seek services with dignity. Kamala, who was admitted to a hospital because of an accident, was moved from the women's ward to the men's ward by the hospital after noticing that her IC says 'male'. Kamala shared the discrimination that she experienced:

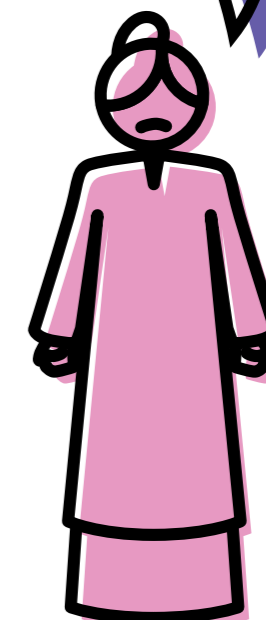
I was recently admitted to the women's ward. At that time I met with an accident. They thought, because I was wearing women's attire, right, they put me in the women's ward. After that they saw the form, and they saw my (dead) name, and they said, 'eh, this is a man.' And then brought me to the men's ward instead. At that time, I was so humiliated. I stayed there for one day like that, I was wearing a short skirt, all the men saw.²²⁴

223 Interview with Aya, 24 May 2019

224 Interview with Kamala, 9 September 2020

"If we ask them why you want to arrest us? [They say] because transgender (people) are useless"

(Kamala)



Conclusion and Recommendations

The research clearly shows that the respondents face widespread restrictions of freedom of expression because of their gender identity and gender expression by their family members, society, employers, religious institutions and other actors since in their childhood. This in turn, has subjected the respondents to multiple forms of discrimination, violence, self-harm and self-censorship.

At the same time, central to the lack of enjoyment of freedom of expression is the criminalisation of non-cisnormative gender

identity and expression under the laws and non-recognition of trans and gender diverse persons by state and other institutions as well as society. The chilling effect of the structural and cultural criminalisation of trans women on their lives is evident given the challenges, barriers and consequences that trans women face to express themselves in all spaces.

The experiences and findings also show that the violation of freedom of expression often intersect with right to self-determination, right to employment, freedom of religion and belief, freedom of movement, right to privacy, right to education, and right to found a family.²²⁵

The correlation between the respondents' freedom of expression and their livelihood and economic well-being is well documented and worrying. For many respondents their likelihood of securing employment hinges on their willingness to change their gender expression. As a result, many live in precarious conditions.

The findings also show that the trends of discrimination and violence against trans women in Malaysia have not changed much. The increased visibility of trans women on social media, partly due to the increase of trans women-owned businesses online and trans women social media influencers is often met with backlash and heavy-handed state response. The online gender-based violence experienced by trans women is visible, yet completely unaddressed.

The role of religion and its correlation with the respondents freedom of expression is glaring and cannot be overstated. From toxic religious narratives to gender policing and restrictions of freedom of religion from the state, institutions, and society, religion has an overwhelming influence in the lives of trans women, in particular Muslim trans women. The contribution of the Ministers of Religious Affairs to the negative perception of trans people, reprisals against trans women, and restriction of their freedom of expression is consistent, and must be addressed.

As stated, the barriers, restriction and denial of trans women's freedom of expression are placed by a diverse set of actors, and not just the state. As such, below are some key recommendations for government, religious institutions, employers, media, and family members and individuals.

225 "Relating to the Right to Found a Family (Principle 24) – Yogyakarta Principles." *Yogyakarta Principles*, yogyakartaprinciples.org/relating-to-the-right-to-found-a-family-principle-24.

Government

There are a number of key areas where the government could focus to increase representation, opportunities, protection and information in relation to gender identity and gender expression.

1. Create access to adequate, accessible and survivor-centered protection against discrimination and violence for trans women

This includes:

- Development and introduction of a Standard Operating Procedures (SOP) and guidelines on inclusion and gender diversity in all sectors. Below are some documented good practices which may be referenced in the development of such guidelines:
 - The Ontario Human Rights Commission has a policy on preventing discrimination because of gender identity and gender expression, which includes measures that can be adopted to prevent and respond to discrimination based on gender identity and gender expression and a best practice checklist.²²⁶
 - In 2019, the Australian Human Rights Commission introduced a guideline for the inclusion of transgender and gender diverse people in sports.²²⁷
 - *Guidelines to Human Rights-based Trans-specific Healthcare* by Transgender Europe (TGEU) among others civil society guidelines provides an overview of what trans healthcare should look like and makes recommendations for creation of protocols and legislations to ensure access to healthcare for trans and gender diverse

226 "Policy on Preventing Discrimination Because of Gender Identity and Gender Expression." *Ontario Human Rights Commission*, www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression.

227 Australian Human Rights Commission. *Guidelines for the Inclusion of Transgender and Gender Diverse People in Sport*. Australian Human Rights Commission, 2019, humanrights.gov.au/sites/default/files/document/publication/ahrc_transgender_and_gender_diverse_guidelines_2019.pdf.

persons.²²⁸

- In 2020, the European Union (EU) released a 5-year *LGBTIQ Equality Strategy 2020 - 2025*, which aims to tackle discrimination, ensure safety, equality and inclusivity for LGBTIQ persons in the EU.²²⁹
- Training and capacity building with government staff on gender, diversity and inclusion and human rights;
- Pro-active measures by the government agencies, including the police, the Malaysian Multimedia and Communication Commission, and Suhakam in addressing access to justice and gender-based violence against trans women;
 - Ensure the collection of gender-disaggregated data and tracking of crimes and violence against transgender persons;
 - Revise gender categories, add additional columns for gender pronouns and name, if different from name in legal documents (in the absence of legal gender recognition) in government forms to improve data collection and analyses.
- 5. The *Data collection in relation to LGBTIQ People* report by the European Commission highlights key issues in relation to data collection and measures to enhance data collection. The report also highlights that the Equality Authority in Cyprus, a body that receives employment complaints, disaggregates complaints based on gender identity.²³⁰

Meanwhile, Statistics New Zealand released the Statistical Standard for Gender Identity in 2015, which introduces 'gender diverse' as an additional gender category to 'male' and 'female'. In Nepal, trans and gender diverse individuals can register as 'third gender' in their citizenship document, and in the national census. Similarly in Uruguay, a national census for transgender led by the Ministry of Social Development was introduced in 2016.²³¹

228 "Guidelines to Human Rights-Based Trans-Specific Healthcare." *TGEU*, tgeu.org/guidelines-to-human-rights-based-trans-specific-healthcare.

229 *Union of Equality: LGBTIQ Equality Strategy 2020-2025*. European Commission, 2020, ec.europa.eu/info/sites/info/files/lgbtiq_strategy_2020-2025_en.pdf.

230 Bell and European Commission. Directorate-General for Justice and Consumers. *Analysis and Comparative Review of Equality Data Collection Practices in the European Union*. Stuttgart-Germany, Germany, UTB, 2017.

231 Brown, Taylor, et al. *Exploring International Priorities and Best Practices for the Collection of Data about Gender Minorities, Report of Meeting*. Los Angeles,

Other notable data collection efforts include a survey by the European Union Agency for Fundamental Rights participated by 140,000 LGBTIQ persons in the European Union, Macedonia and Serbia.²³²

- Repeal all laws that criminalise non-cisnormative gender identity and gender expression (see appendix 2);
- Introduce a Gender Affirming Act to allow legal recognition of transgender and gender diverse persons in Malaysia based on self determination. Malta,²³³ Pakistan,²³⁴ and Argentina²³⁵ are some examples of countries with affirming gender identity laws;
- Introduce comprehensive anti-discrimination laws or a Gender Equality Act to eliminate gender-based violence, ensure access to justice and uplift trans women from marginalisation.

2. Increase representation and opportunities of trans women in all spaces

Similar calls to the 30% of women in decision making positions are needed for trans women in order to bridge disparities in relation to accessibility, participation and representation in the employment, education and other sectors in Malaysia. It is also imperative and urgent for the government to address the employment discrimination faced by trans people, by introducing laws and guidelines that protect trans people against hiring discrimination based on gender identity and expression.

3. Increase access to information in relation to transgender persons, gender identity and human rights

Some of the discrimination and violence experienced by transgender women are a result of the lack of accurate and affirming information regarding gender identity and gender expression, transgender persons and human rights. It is critical to undertake public awareness campaigns and

California, The Williams Institute, 2017, williamsinstitute.law.ucla.edu/wp-content/uploads/Int-Data-Collection-Gender-Minorities-Mar-2017.pdf.

232 Lukas. "Human Rights Day: Trans People in the EU." *TGEU*, 10 Dec. 2020, tgeu.org/trans-people-in-the-eu.

233 "Gender Identity, Gender Expression and Sex Characteristics Act, 2015." *TGEU*, tgeu.org/wp-content/uploads/2015/04/Malta_GIGESC_trans_law_2015.pdf.

234 *Pakistan: Transgender Persons (Protection of Rights) Act, 2018 - A Briefing Paper*. The International Commission of Jurists (ICJ), 2020, www.icj.org/wp-content/uploads/2020/03/Pakistan-Transgender-Advocacy-Analysis-brief-2020-ENG.pdf; p 13

235 "Argentina Gender Identity Law." *TGEU*, tgeu.org/argentina-gender-identity-law.

efforts to dismantle the stigma and misconceptions, especially among government staff, employers, parents and family members, religious groups and communities, among others. The introduction of a comprehensive sexual and reproductive education in schools that include SOGIESC would contribute to reduction of stigma and discrimination against trans people.

4. Review existing laws, policies and practices in relation to transgender persons in Malaysia

The existing laws criminalise non-cisnormative gender identity and gender expressions and policies that promote rehabilitation have systemic impact on all areas of trans people's lives. Given the widespread and long-term harm against trans people, these laws and policies must be reviewed.

Religious Institutions

1. Adopt an evidence- and rights-based approach in addressing issues in relation to trans people, instead of the current rescue and rehabilitate approach
2. Review the definition and understanding of *fitrah* and gender by shifting from a binary and essentialist lens guided by the lived experiences of trans and gender diverse people, science, and history.
3. Engage queer and feminist affirming religious scholars in understanding sex, gender, sexual orientation and plurality in religion
4. End all forms of rehabilitation and punishment of trans and gender diverse persons because of their identities and the expression of their identities

Employers

5. Guided by the UN Guiding Principles on Business and Human Rights the private sector should take measures to protect, respect, remedy²³⁶ as well as promote the human rights of trans and gender diverse persons. In particular, employers should ensure:
 - a. comprehensive non-discrimination and inclusion policies are in place to ensure trans and gender diverse workers are protected against discrimination and violence
 - b. gender, inclusion and diversity and human rights trainings at the workplace to dismantle prejudice among co-workers and create a

236 "UNGP's Guidance & Implementation - Business & Human Rights Resource Centre." *UN Guiding Principles*, www.business-humanrights.org/en/big-issues/un-guiding-principles-on-business-human-rights/guidance-implementation.

welcoming environment

- c. adopt trans and gender diverse affirming workplace guidelines. Guidelines developed by civil society, for example, the Transgender Equality Network Ireland (TENI)'s *Guidelines for Employers and Employees*²³⁷ and TGEU's *Trans-Inclusive Workplaces – A Guide for Employers and Businesses*²³⁸ provide tools and resources for employers to implement inclusion of trans and gender diverse persons in the workplace

Media

The media needs to increase affirming representation of trans and gender diverse people in the media and adopt higher media standards when reporting trans-related news. The media should engage trans and LGBTIQ groups to develop media guidelines or refer to existing media guidelines in English and Malay language.

Family Members and Individuals

Family members and individuals are encouraged to seek information and support by connecting with trans and LGBTIQ human rights groups

237 *Supporting Transgender Inclusion In The Workplace Guidelines for Employers and Employees*. Transgender Equality Network Ireland (TENI), 2017, www.teni.ie/wp-content/uploads/2019/11/Supporting-Transgender-Inclusion-in-the-Workplace-Guidelines-for-Employers.pdf.

238 "Trans-Inclusive Workplaces Guide." TGEU, tgeu.org/inclusiveworkplaces.



Appendix 1

LGBTQ related recommendations in UPR Cycle 3

No.	Recommendations	Country	Status
151.55	Approve a broad antidiscrimination law that includes the protection of all rights for all people without discrimination	Uruguay	Noted
151.77	Take the necessary measures to establish in its national legislation a comprehensive legal framework for effective protection against discrimination and violence against LGBTI people	Argentina	Noted
151.78	Take necessary measures to protect LGBTI persons, in law and in practice, against any form of violence, harassment or discrimination and ensure the full enjoyment of all their fundamental human rights and freedoms	Austria	Noted
151.79	Review and repeal laws that directly or indirectly criminalise consensual same-sex sexual activity and take action to prevent violence, discrimination or corporal punishment on the basis of sexual orientation or gender identity	Canada	Noted
151.80	Decriminalise consensual sexual relations between adults of the same sex	Chile	Noted
151.81	Ensure respect for the fundamental rights of all, without discrimination, including in relation to LGBTI persons by decriminalising homosexuality	France	Noted
151.82	Repeal all legislation that discriminates on the basis of sexual orientation or gender identity to guarantee that LGBTI persons can enjoy all human rights without facing discrimination with regard to work, health, education, housing and other policy	Germany	Noted
151.83	Repeal all laws that criminalize persons based on their sexual orientation and gender identity	Iceland	Noted
151.84	Undertake efforts to guarantee and protect the human rights of LGBTI persons in line with international obligations	Ireland	Noted
151.85	Take concrete steps to protect LGBTI persons from discrimination and violence, including through enactment of explicit nondiscrimination provisions in law, development of public awareness programs and to allow for recognition of the gender of transsexual persons	Netherlands	Noted
151.224	Implement anti-bullying campaigns in schools addressing all forms of bullying, including based on actual or perceived sexual orientation, gender identity or gender expression	Portugal	Partially accepted

Appendix 2

Laws that criminalize non-cisnormative gender identity and expression

CIVIL LAW

Section 21 of the Minor Offences Act 1955 - Drunkenness and disorderly behaviour in public places

21. Any person who is found drunk and incapable of taking care of himself, or is guilty of any riotous, disorderly or indecent behaviour, or of persistently soliciting or importuning for immoral purposes in any public road or in any public place or place of public amusement or resort, or in the immediate vicinity of any Court or of any public office or police station or place of worship, shall be liable to a fine not exceeding twenty-five ringgit or to imprisonment for a term not exceeding fourteen days, and on a second or subsequent conviction to a fine not exceeding one hundred ringgit or to imprisonment for a term not exceeding three months or to both.

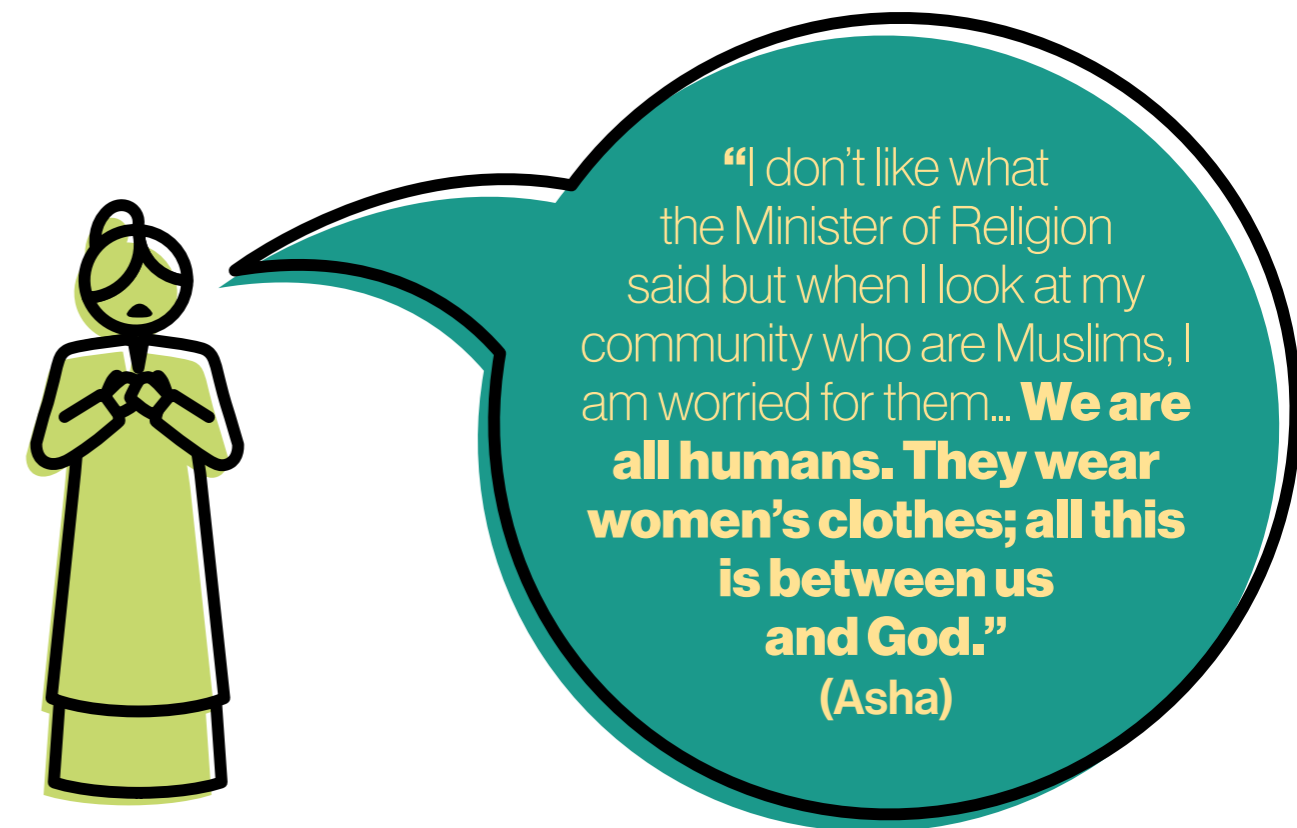
STATE SYARIAH LAWS

State	Laws
Kelantan	Section 7. Pondan Any male person who, in any public place, wears woman attire and poses as a woman shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding four months or to both.
Kedah	Section 7. Pondan. Any male person who, in any public place, wears woman attire and poses as a woman shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding four months or to both.
Perlis	Section 7. Pondan. (1) Any male person who poses (tasyubbah) as a woman in any public place shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both. (2) Any female person who poses (tasyabbah) as a man in any public place shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both.
Terengganu	Section 33. Male person posing as woman. Any male person who, in any public place, wears a woman's attire and poses as a woman for immoral purposes shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Perak	<p>Section 55: Man posing as a woman</p> <p>A man who wears a woman's attire and in any public place poses as a woman for immoral purposes is guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding six months or to both.</p>
Johor	<p>Section 28. Male person posing as woman.</p> <p>Any male person who, in any public place, wears a woman's attire and poses as a woman for immoral purposes shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding one year or to both.</p>
Federal Territories	<p>Section 28. Male person posing as woman.</p> <p>Any male person who, in any public place, wears a woman's attire and poses as a woman for immoral purposes shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding one year or to both.</p>
Selangor	<p>Section 30. Male person posing as a woman.</p> <p>Any male person who, in any public place, wears a woman's attire or poses as a woman for immoral purposes shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding six months or to both.</p>
Melaka	<p>Section 72. Male person posing as woman.</p> <p>Men posing as women. Any male person who, in any public place, wears a woman's attire and poses as a woman for immoral purposes shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding one year or to both.</p>
Pulau Pinang	<p>Section 28. Male person posing as woman.</p> <p>Any male person who, in any public place, wears a woman's attire and poses as a woman for immoral purposes shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding one year or to both.</p>
Sabah	<p>Section 92. Male posing as woman or vice versa.</p> <p>Any male person who, in any public place, wears a woman's attire and poses as a woman or vice versa shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding six months or to both.</p>
Sarawak	<p>Section 25: Man posing as woman</p> <p>Any man who, in any public place, wears a woman's attire and poses as a woman for immoral purposes shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding one year or to both.</p>
Pahang	<p>Section 33. Man posing as woman</p> <p>Any man who, in any public place, wears a woman's attire and poses as a woman for immoral purposes commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding one year or to both.</p> <p>Section 34. Woman posing as man</p> <p>Any woman who, in any public place, wears a man's attire and poses as a man for immoral purposes commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding one year or to both.</p>

Negeri Sembilan	<p>Section 66. Male person posing as a woman.</p> <p>Any male person who, in any public place wears a woman attire and poses as a woman for immoral purposes shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three thousand ringgit or to imprisonment for a term not exceeding two years or to both.¹</p> <p>Section 66a. Male person posing as a woman.</p> <p>Updated version is unavailable</p>
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Source: E-Syariah official portal²³⁹ and Human Rights Watch²⁴⁰



239 “Syariah Law.” *Jabatan Kebajikan Syariah Malaysia*, www.esyariah.gov.my/portal/page/portal/Portal%20E-Syariah%20BI/Portal%20E-Syariah%20Carian%20Bahan%20Rujukan/Portal%20E-Syariah%20Undang-Undang.

240 “I’m Scared to Be a Woman.” *Human Rights Watch*, 16 Feb. 2018, www.hrw.org/report/2014/09/24/im-scared-be-woman/human-rights-abuses-against-transgender-people-malaysia#9037.

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